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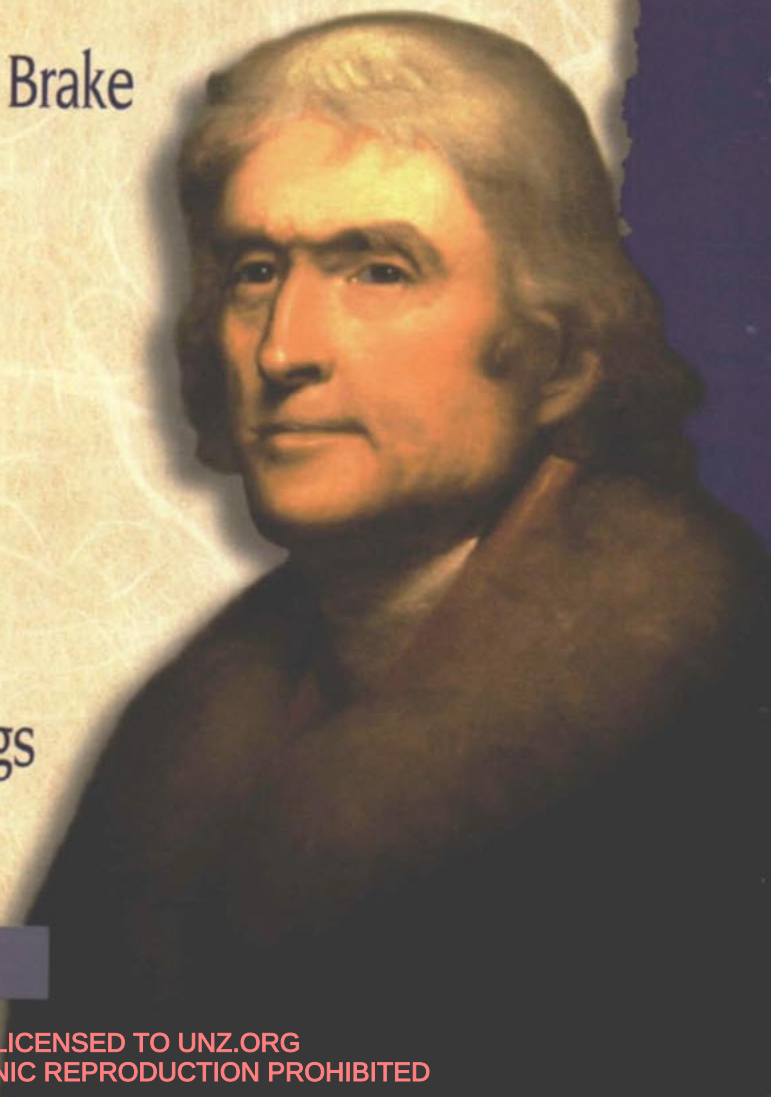

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IDEAS ON LIBERTY

March 2002 Vol. 52, No. 3

FEATURES

8 Why Children Are Dying in the Nation's Capital *by James L. Payne*

10 The Other Paradigm of Consumer Protection *by Keith Wade*

14 A New Old American Concept of Political Liberty *by Norman Barry*

19 Nullification: The Jeffersonian Brake on Government *by Thomas E. Woods*

26 On Guests and Customers *by Stephen G. Barone*

27 The Virtues of Sweatshops *by Stefan Spath*

30 America's Worst Enemy *by George F. Smith*

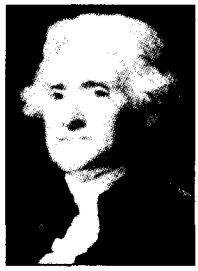
35 Prescription Drugs and Advertising *by William L. Anderson*

38 Protecting Precious Resources *by Scott McPherson*

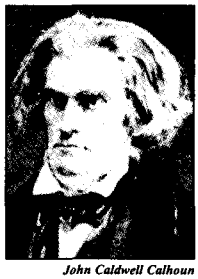
42 Do Big Corporations Control America? *by James Rolph Edwards*

46 Beijing Erodes Hong Kong's Laissez Faire *by Christopher Lingle*

48 Lead Balloons *by Larry Schweikart*



Thomas Jefferson



John Caldwell Calhoun

COLUMNS

4 *FROM THE PRESIDENT'S DESK*—Japan and the Macroeconomic Debate *by Mark Skousen*

12 *IDEAS and CONSEQUENCES*—The Man Who Ate Hamtramck's Government *by Lawrence W. Reed*

24 *POTOMAC PRINCIPLES*—Free to Be Stupid *by Doug Bandow*

33 *THE THERAPEUTIC STATE*—Parity for Mental Illness, Disparity for Mental Patients *by Thomas Szasz*

40 *ECONOMIC NOTIONS*—The Cure Can Be Worse than the Disease *by Dwight R. Lee*

52 *THOUGHTS on FREEDOM*—Politics and Prohibition *by Donald J. Boudreaux*

63 *THE PURSUIT of HAPPINESS*—"We Can't Get Rich Doing Each Other's Laundry" *by Russell Roberts*

DEPARTMENTS

2 Perspective—Commerce Triumphs *by Sheldon Richman*

6 Wartime Curbs on Liberty Are Costless? It Just Ain't So! *by Robert Higgs*

51 Capital Letters

54 Book Reviews

While America Sleeps: Self-Delusion, Military Weakness, and the Threat to Peace Today by Donald Kagan and Frederick W. Kagan, **Present Dangers: Crisis and Opportunity in American Foreign Policy and Defense Policy,** edited by Robert Kagan and William Kristol, reviewed by Doug Bandow; **A Nation of Cowards: Essays on the Ethics of Gun Control** by Jeff Snyder, **The Origin of the Second Amendment: A Documentary History of the Bill of Rights,** edited by David Young, reviewed by Dave Kopel; **PC, M.D.: How Political Correctness Is Corrupting Medicine** by Sally Satel, M.D., reviewed by Sue A. Blevins; **Escape from Leviathan: Liberty, Welfare and Anarchy Reconciled** by J. C. Lester, reviewed by Andrew I. Cohen; **Competition or Compulsion? The New Market Economy versus the New Social Engineering,** edited by Richard Ebeling, reviewed by George C. Leef; **Lenin: A Biography** by Robert Service, reviewed by Yuri Maltsev.

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PERSPECTIVE

Commerce Triumphs

The day after the Taliban abandoned Kabul in Afghanistan last November, the *New York Times*'s David Rohde reported on the quick revival of commerce in the capital. "Food appeared plentiful. A central market that lines the road leading into the city had large amounts of fresh meat for sale, fruit juices from Iran and even Coca-Cola, a testament to the strength of smuggling networks in the area."

This is yet another tribute to the resiliency of markets and the people who animate them. Kabul had been under the thumb of a repressive, reactionary regime for years. Then it was thrown into chaos by massive U.S. bombing and fighting between the Taliban and the Northern Alliance. Yet the moment there is calm, commerce flourishes. Merchants were selling CDs along with the victuals. One man sold satellite dishes.

I've long thought that the best definition of capitalism is: the moral-legal-economic system that results when people are left alone. It's the default position. Every time some ruler has sought to abolish or severely restrict the market, he's had to set up a secret police to keep an eye on the population lest they act like capitalists. There is nothing more natural than for people, of virtually any culture, to look for ways to improve their lots in life through investment, production, and trade. Governments may squelch that activity and even execute its practitioners, but they can never wipe it out. Given half a chance, people find a way.

The Afghans have managed to find a way amid the most adverse conditions. A good word should be said for the smuggler. He's gotten a bad rap historically. But the smuggler is the one who risks life and limb to satisfy consumers when the government refuses to permit "anything that's peaceful." He was an admired figure in America's revolutionary days. It was the customs officer who got tarred and feathered.

Long-term, permanent economic progress in Afghanistan will require the security pro-

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vided by formal property rights and the rule of law. That in turn will depend on the attitudes of the people there. But it is inspiring to see what people can do on short notice under less-than-optimal conditions.

* * *

Those who look to government to accomplish big things, like defending our liberty, might contemplate its apparent inability to keep the children in its own custody alive. James Payne has the heartbreaking story from Washington, D.C.

Buyer need not beware because the government is watching out for you. Right? Then why, Keith Wade asks, is the market generating private protection?

The American system rests on the premise that words on parchment read by judges can protect liberty. At the time of the founding, not everyone thought it would work. Norman Barry revisits the doubts that plagued the anti-federalists.

Those doubts led to a search for devices to keep the national government confined to its constitutional dimensions. Thomas Woods Jr. discusses one of those devices.

Orwell once wrote that sloppy language leads to sloppy thinking. So why do we let the IRS get away with calling us "customers"? Stephen Barone wants to know.

Nothing is more despised by college students and union workers than third-world sweatshops. A little sound economics, writes Stefan Spath, can clear things up quickly.

In the aftermath of September 11, what's the American people's greatest enemy? George F. Smith says it's the same as it was before the day of terror.

Big advertising budgets account for the high price of pharmaceutical drugs. So say the pundits and politicians. Industry spokesmen say it's R&D. William Anderson says they're all wrong.

Discussions about resources, such as the ANWR oil, often imply that they belong to the nation or the government. That kind of thinking, writes Scott McPherson, can only get us into trouble.

It's widely believed that the people who run large corporations dictate public policy as well. James Rolph Edwards points out some facts that don't fit the theory.

China agreed to keep its hands off Hong Kong when it regained jurisdiction over the former British colony. Unfortunately, Christopher Lingle is seeing ominous signs of interference with the laissez-faire haven.

The states scored big when they sued the tobacco companies. They also found a novel way to capture resources without raising taxes. Larry Schweikart sees the next round coming.

Here's what our columnists have cooked up this month: Mark Skousen examines Japan's economic woes. Lawrence Reed presents a case study of municipal privatization. Doug Bandow marvels at post-September 11 stupidity. Thomas Szasz examines insurance parity for mental illness. Dwight Lee looks at the question of public goods. Donald Boudreaux wonders what it'll take to end the drug war. Russell Roberts defends service-sector jobs. And Robert Higgs, reading a historian's claim that past wartime limits on freedom have done no harm, protests, "It Just Ain't So!"

In the book department, reviewers dissect volumes on U.S. foreign and military policy, the right to keep and bear arms, medical political correctness, a new approach to defending the freedom philosophy, social engineering, and Lenin.

—SHELDON RICHMAN

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From The President's Desk

IDEAS ON LIBERTY
MARCH 2002

by Mark Skousen

Japan and the Macroeconomic Debate

"Economics is a very dangerous science."
—JOHN MAYNARD KEYNES[1]

"Economics is haunted by more fallacies than any other study known to man."
—HENRY HAZLITT[2]

There is no better example of today's heated debate over macroeconomics than Japan. What policy should this nation—economically the second largest in the world—adopt to start growing again after a decade of sluggish performance?

It seems that Japan has tried all the traditional remedies since it collapsed into recession in the early 1990s and lost out as a world economic model. The Bank of Japan lowered short-term interest rates to zero. Tokyo raised taxes, ran huge deficits, and spent billions on public-works projects. But neither an easy-money policy nor an aggressive fiscal policy has done the trick. Japan is still mired in recession and rising unemployment, and now faces the largest debt burden among industrial nations.

In the late 1980s, Japan was considered the model of prosperity. Economists predicted that it would surpass the U.S. economy in 2000; the next century belonged to this Asian giant. Its lifetime-employment and bonus system was considered a superior business-labor management strategy. But the weaknesses of the Japanese economy became apparent in the 1990s—its model was too static and homogeneous for the dynamic global new economy. In 1990 the Fraser Institute's economic freedom report ranked Japan ninth in the world. Now it is ranked only 20th primarily due to the growth of government and the mismanagement of the banking system.[3]

I witnessed firsthand this endless story of economic frustration when my wife and I spent a few days in Tokyo last June. The government has spent several trillion yen building a massive underwater highway called Aqualine. Now Tokyo residents have a fast alternate route outside the city. But the government charges $50 one way to go five miles under water and, as a result, even the Japanese are reluctant to use Aqualine.

Classical economists long taught that the government should produce only viable public works, where the benefits clearly outweigh the costs. But John Maynard Keynes turned the world upside down when he proclaimed that in a downturn, "To dig holes in the ground, paid out of savings, will increase, not only employment, but the real

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national dividend of useful goods and services."[4] Apparently several Japanese prime ministers have fallen under the Keynesian spell, but to no avail.

New Medicine: Print More Yen!

Several prominent economists have urged the charismatic new prime minister, Junichiro Koizumi, to adopt a more radical proposal—flood the country with yen. "Japan needs to spur demand," argue Jeffrey Sachs of Harvard and Paul Krugman of Princeton. Even Milton Friedman, the celebrated free-market economist (famous for his refrain, "There's no such thing as a free lunch"), has joined forces with top Keynesians to promote aggressive easy money as a way to jump-start a weak economy and counter deflation. Friedman has supported a rapid increase in the money supply in Japan since late 1997.[5]

At the Mont Pelerin Society meetings in September 1999, I confronted Friedman on this issue. He and his wife had organized the program under the topic "Can Creeping Socialism Be Stopped?" In one of the breakout sessions I asked him about his easy-money solution to Japan's economic problems. I held up his article in the *Wall Street Journal* and noted how it made no reference to cutting taxes, deregulation, or opening up the Japanese economy; only inflation was proposed as a solution. "Isn't printing more money another example of creeping socialism?" I asked. He was not amused. Friedman said that historically increasing the money supply stimulates economic growth, and fast monetary growth was necessary given Japan's fragile condition. "Then there is a free lunch?" I asked. "A free disaster!" responded Friedman. Afterwards, Professor Jim Gwartney came up to me and said, "You attacked God today!" Indeed. Yet even free-market icons can make mistakes.

Fortunately, Prime Minister Koizumi has rejected this artificial stimulus and favors a supply-side agenda. He supports a regimen of capping government spending, requiring banks to write off and restructure their mammoth $1.2 trillion in bad loans, and privatizing the massive postal saving system, which funded much of the misconceived public works of the 1990s. Tax cuts would also be highly beneficial. Koizumi would be wise to follow the lead of the Obuchi administration (1998–99), which pushed through moderate tax cuts in personal and corporate income taxes. But he has postponed this vital supply-side ingredient until the crushing government-debt burden can be reduced.

Structural reform, as opposed to easy money and public spending, can work wonders in getting the Japanese economy back on track. For example, in 1994, when Japan deregulated the cell-phone industry, prices dropped and sales skyrocketed, and this year cellular-related revenues are expected to exceed $72 billion, nearly 2 percent of economic output.

The lesson is clear: Free the economy and prosperity will follow. □

1. John Maynard Keynes, *Essays in Biography* (New York: Norton, 1951), p. 107.
2. Henry Hazlitt, *Economics in One Lesson*, 3rd ed. (New York: Arlington House, 1979), p. 15.
3. James Gwartney et al., *Economic Freedom of the World Annual Report 2001* (Vancouver, B.C.: Fraser Institute, 2001), p. 182.
4. John Maynard Keynes, *The General Theory of Employment, Interest and Money* (London: Macmillan, 1936), p. 220.
5. Milton Friedman, "Rx for Japan," *Wall Street Journal*, December 17, 1997.

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IDEAS ON LIBERTY
MARCH 2002

Wartime Curbs on Liberty Are Costless?

It Just Ain't So!

In one of the most provocative opinion articles of recent times, "Security Comes Before Liberty" (*Wall Street Journal*, October 23, 2001), Jay Winik argued (1) that in previous national emergencies, U.S. presidents took strong repressive measures against citizens and other residents of the country, (2) that the repressive measures implemented so far by the Bush administration are comparatively mild, and (3) that notwithstanding the more Draconian measures taken during previous crises, "normalcy returned, and so too did civil liberties, invariably stronger than before." Hence, Winik concluded, even if the Bush administration "deems it necessary to enact more restrictive steps, we need not fear."

Several commentators quickly took issue with Winik's argument. Most important, the critics challenged the claim that "despite these previous and numerous extreme measures, there was little long-term or corrosive effect on society after the security threat had subsided." In fact, each episode of national emergency left the liberties of Americans not "stronger than before," but severely maimed and weakened.

During World War I, the Wilson administration took sweeping actions to suppress not only individuals' freedom of action but even their freedom of expression. The 1918 Sedition Act must be read to be believed. Under it, one might be, as some 2,000 persons were, prosecuted for daring to "utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States, or any language intended to bring the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United Sates into contempt, scorn, contumely, or disrepute." Nor was this all the statute forbade!

When convictions under the Sedition Act were challenged in the courts, the U.S. Supreme Court upheld the statute. To his eternal shame, Justice Oliver Wendell Holmes, Jr., wrote: "When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and no Court could regard them as protected by any constitutional right." This decision and others upholding unconstitutional measures undertaken by the Wilson administration might strike the proverbial Man from Mars as odd, because the Constitution itself makes no provision for its own evisceration during wartime or other crisis, yet time and again during national emergencies the justices have allowed the legislative branch and especially the executive branch of government to transcend their constitutionally enumerated powers and to nullify individual rights proclaimed in the Constitution.

The Wilson administration conscripted some 2.8 million men—70 percent of those who served in the army. The Supreme Court could find no constitutional infirmity in that involuntary servitude, and its ruling has been a decisive precedent for judges ever since. The government also intervened massively in economic affairs, setting prices, allocating raw materials, and even going so far as to nationalize the interstate railroad, ocean shipping, and telecommunications industries. Those measures established precedents that would return to haunt subsequent generations and

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undercut their liberties in later crises—economic depressions as well as wars—each time entering more deeply into the fiber of American life, with malign effects on the traditional American devotion to liberty.

World War II became the occasion for unprecedented repressive actions by the U.S. government. More than 10 million young men—about 63 percent of all those who served in the armed forces during the war—were drafted to fight, and hundreds of thousands of them died or suffered serious wounds. The government imprisoned nearly 6,000 conscientious objectors, most of them Jehovah's Witnesses, who refused to obey the conscription laws. Totally without due process of law, the government confined some 112,000 innocent persons of Japanese ancestry, most of them U.S. citizens, in concentration camps in desolate areas of the west. Perceived enemies of FDR's administration came under surveillance by the FBI, whose special-agent ranks mushroomed from 785 to 4,370 during the war.

The government built a massive apparatus of economic controls between 1941 and 1945 and displaced free markets for the duration. No one should pooh-pooh the wartime economic controls because they entailed a sacrifice of "mere" economic liberties, as opposed to "precious" civil liberties. Men were sent to prison for violating price controls, and people were displaced from their homes to make way for military construction projects. Wartime taxation itself was no trivial assault.

To pay for the gargantuan munitions production, the government imposed new taxes and raised the rates of existing taxes to unprecedented heights. Payroll withholding of income taxes was instituted, as portentous an action as any, because it created a virtually automatic means of snatching people's earnings and thereby greatly facilitated the government's subsequent financing of its ever-growing expenditures. Despite the vastly increased taxation, the government had to borrow most of its wartime revenue, and the national debt swelled by $200 billion (equivalent to roughly ten times that amount in today's dollars), or about fivefold, creating liabilities that would hover over taxpayers ever afterward.

Can-Do Government

World War II gave a tremendous fillip to the federal government's reputation as a "can-do" organization, which helped to sustain various wartime economic controls, most notoriously New York City's never-abandoned rent controls. Moreover, as economist Calvin Hoover observed, the war "conditioned [American businessmen] to accept a degree of governmental intervention and control after the war which they had deeply resented prior to it."

During the prolonged Cold War emergency, an apprehensive nation grew accustomed to extensive domestic surveillance, government infiltration of dissident political groups, and even the murder of persons perceived by the government as threats to "national security." In the light of these and countless other facts, one wonders how Winik managed to conclude that "our democracy can, and has, outlived temporary restrictions and continued to thrive"?

Winik would have us believe that, even if the government should adopt much more repressive measures to fight its declared "war on terrorism"—and indeed it has done so since his article appeared—we shall ultimately get past them, back to our glorious democracy, with the dangers surmounted and our freedoms undiminished. Vice President Dick Cheney, however, sees the matter in a different light. The present war "may never end," Cheney said on October 19. "It's a new normalcy."

In the weeks that have passed since the Vice President uttered those ominous words, the government has continued to act in ways that confirm the worst fears of those who cherish a free society. Many of the measures being taken will have little effect on terrorism but much effect on ordinary Americans, and many of those measures will surely persist even when the present crisis has passed.

—Robert Higgs
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The Independent Institute

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IDEAS ON LIBERTY
MARCH 2002

Why Children Are Dying in the Nation's Capital

by James L. Payne

The recent anxiety about terrorism seems to have led the public to look to government with a new confidence, as if it were a father figure capable of taking care of us. Before we get too enthusiastic, however, we ought to remind ourselves what we have learned from many decades of experience with Washington, D.C. Private companies may have shortcomings, and voluntary arrangements may not cover all the bases, but it doesn't follow that government is the solution. The record shows that government agencies often fail, and fail miserably. It also shows that when a government agency goes sour, it can be very difficult to fix.

For several decades, Washington has had on its own doorstep a glaring case of agency failure: Child and Family Services, the unit of the city government that is supposed to take care of abused and neglected children. Policymakers and editorialists who expect government to save us would profit from a close look at the history of this agency.

In this day and age the public doesn't have high expectations for a government welfare agency. We don't expect it to provide love. We don't expect it to build character, or to inspire children, or even to teach them good manners. All the public demands, really, is that it keep its charges alive. D.C.'s Child and Family Services hasn't even been able to accomplish that.

As newspaper headlines have been reminding the city for years, the children in its care die—or are killed—in alarming numbers. An investigation by the *Washington Post* found that from 1993 to 2000, 229 children ended up dead after coming under the supervision of this agency. In some cases, government workers were informed that a child was in a life-threatening situation and they ignored it. In many others, social workers placed a child in a foster home or institution that was neglectful or abusive. This program, the *Post* concluded in an editorial back in 1991, "has abused the children almost as much as the battered families and broken homes from which they were rescued."

Washington is a city laden with democratic political institutions and also with democratic (small and large "d") politicians; so, in theory, the "children's ordeal" (as the *Post* called it) ought to have been quickly ended. Well, it hasn't been, not by the District's elected mayor and elected city council, nor by the federal government, which supervises and funds the District.

Jolted by screaming headlines, the politicians have thrown money at the problem, but that hasn't worked. With a budget of $147 million, Child and Family Services spends $610,000 per social-worker employee, and $45,000 a year for each child under supervision. (When a bureaucracy tries to take care of children, it is expensive!)

Contributing editor James Payne (jlpayne@netw.com) is the author of Overcoming Welfare: Expecting More from the Poor—and From Ourselves *(Basic Books).*

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Some say that the way to fix agency failure is to write regulations that clearly instruct the employees on what they must do in each case. That's been tried, and it hasn't worked. In fact, overregulation may have made the problem worse. In the early 1990s it emerged that a social worker dealing with a custody case had to write up and submit nine documents within 24 hours—a huge deterrent to action. An effort was made to streamline these regulations, but it backfired. The new, comprehensive regulations issued in 1995 were 400 pages long.

When all else had failed, the lawyers came with their lawsuits. In 1989, the American Civil Liberties Union filed a class-action suit on behalf of abused and neglected children. That lawsuit dragged along until April 1991 when the U.S. District Court judge hearing the case, Thomas Hogan, concluded that the agency was a "travesty" that was creating a "lost generation of children whose tragic plight is being repeated every day." This court decision led to a treaty-like agreement between the city government and the ACLU lawyers, stipulating a number of formal targets (like preparing the aforementioned book of regulations) that Child and Family Services agreed to meet.

Missed the Targets

Years passed. The agency failed to meet most of the targets, and lawyers, agency staff, and the judge were bogged down in incessant wrangling. Even the ACLU lawyer who had filed the lawsuit was disenchanted. "There was just an endless process and no results," she said. "We have to go back to court on almost everything." And the system kept on abusing children.

So in May 1995 the judge took full control of the agency and put it in the care of a receiver. At first there was euphoria. "This is fantastic," said one foster parent familiar with the incompetence and abuses of the agency. "There's no way a bureaucracy is going to stop me," said Jerome Miller, the newly appointed receiver.

Brave words, but they amounted to little. In 2001, six years later, Child and Family Services has been through three receivers, yet it remains, according to the *Washington Post,* "one of the most dysfunctional child protection agencies in the nation." Its adoption and foster-care functions are still snarled in delay and misunderstanding, leaving hundreds of children in a perpetual and stressful limbo. Children in the system spend an average of 3.7 years being shunted around in temporary care. (The Adoption and Safe Families Act of 1997 mandates that permanent arrangements be made within one year.)

The court supervision continues, producing Kafkaesque tangles as the judiciary attempts to micromanage the hapless agency. For example, in October 2001, a federal judge ordered an employee to be jailed for "willful disregard of a court order" requiring her to file reports on two neglected children. The social worker claimed that, being overworked, she didn't have time to write the reports.

She had a point. For more than a decade, the agency has had a problem of inadequate staffing, and every administrator, judge, and lawyer connected with the program has promised to correct it. But they haven't succeeded. Today the agency has 90 unfilled caseworker positions. It has the money, it just can't retain workers. In 1999–2000, one-third of its social workers quit, turned off by incompetence, red tape, stress, and micromanagement. After all, who would want to work in an agency where judges send you to jail for not filing reports?

So Child and Family Services limps along despite the best-intentioned efforts to reform it. Judges and administrators keep promising, and editorialists wring their hands, yet children keep dying while under the supervision of this agency. There have been seven more deaths since last June.

For those feeling the urge to set up government programs, it's a case history to keep in mind. From afar, government may seem a reassuring father figure, but up close it can prove to be shockingly incompetent. □

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IDEAS ON LIBERTY
MARCH 2002

The Other Paradigm of Consumer Protection

by Keith Wade

One question that comes up in nearly every session of my business information systems class is, "Is it safe to do business on the Internet?" My answer has always been yes, but heretofore my reasoning has been that the encryption routines used by many Internet merchants are far more robust than those used in many ATMs. More important, however, has been a resurgence of the other paradigm of consumer protection: self-help.

I will confess to being a savvy user of the government consumer-protection system. Each time I receive a call from a telemarketer, I fill out a complaint form with the Florida Department of Agriculture, which, in return for my annual payment of $5, criminalizes making telemarketing calls to my home and imposes sanctions on those who do it anyway. When a major retailer refused either to refund my money or deliver my product, I sent details to the Securities and Exchange Commission together with my theories as to why this company's balance sheets deserved major scrutiny. When my then-wife's insurance was not renewed because of erroneous data in a secret automobile insurance industry database—which we were denied an opportunity to review or correct—I complained (unsuccessfully) to the Florida Department of Insurance.

While this system often produces "success" in that it gets the consumer's money back or produces the results contracted for, one major flaw is that it does not prevent consumers from entering into transactions with disreputable merchants in the first place.

Further, it does not always work: jurisdictional issues arise, companies move, and the wheels of government can sometimes move slowly.

Long ago and far away, on my first day of work at Dun & Bradstreet, I was told the story of Abraham Lincoln (one of several American presidents who worked there) riding his circuit and sending his credit reports back to headquarters. In those days before the Federal Trade Commission, the Florida Department of Agriculture, and a myriad of other consumer protection agencies, it was important for people to know whom they were dealing with. So Mr. Dun began collecting this information and selling it to subscribers, allowing them to have some assurance that persons in the then-remote reaches of America could be relied on to pay their bills. The theory was that when it came to reputation, history is often a good indicator of the future.

This system of private reporting on the integrity of businesses survives to this day with little hindrance. Indeed, one of my little pleasures during my time at Dun and Bradstreet was informing the occasional rude per-

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son that notwithstanding his loud and colorfully stated desire not to have his business reported on, there really was nothing he could do about it (as long as what I said was true). As one can imagine, it was never necessary to have this conversation with someone whose sterling business practices had earned his business a glowing report.

What is new is that consumers are finally getting into the act. Dun and Bradstreet, and most of its competitors, have designed their information for and sold it to the "business to business" market. The reports often cost more than a consumer stands to lose if a firm is fraudulent. Further, they often contain information that a consumer just isn't all that concerned with (for example, how timely a company pays its bills).

In recent years, however, consumer-based systems have evolved. Buy or sell something on eBay, for example, and the other party has the opportunity to leave feedback. Each buyer or seller develops a "scorecard" that shows a tally of positive, negative, and neutral experiences. In addition, a prospective buyer or seller can read comments—rendered nearly indelible by eBay policy—from people who have dealt with a given buyer or seller before.

Amazon.com gives its customers the opportunity to post reviews of books they purchase (and some of them are mercilessly honest!). Many online merchants now send customers to BizRate.com at the conclusion of transactions, where they are asked to rate the business's prices, ease of site navigation, and more. Follow-up e-mails come shortly after the merchandise should have arrived to elicit consumers' feelings regarding actual versus promised delivery time.

Businesses Know Good Business

While Better Business Bureaus have been around for a long time and offer services such as pre-purchase company ratings and after-purchase mediation, a variety of companies are taking advantage of the Internet's creation of a realm that is difficult for government-based consumer-protection agencies to police (both because of jurisdictional issues and manpower constraints). Proving that nature abhors a vacuum, a number of private firms have stepped into the "lawless Internet arena" to provide the equivalent of gated communities' private security guards.

Credit card companies—which have long offered consumer protection in the form of the chargeback—have gone even further. American Express, for example, offers Private Payments—a one-use-only credit-card number designed for purchasing things on the Internet. Most credit cards offer some sort of fraud protection.

In addition to its feedback, eBay offers a fraud-protection program (since users must give credit-card numbers and agree to a member agreement before selling anything, eBay does have recourse against rogue merchants) and actively polices its site for fraud and other threats to its viability.

Third parties have even sprung up—from Square Deal, a service that eBay merchants can join, requiring them to abide by certain ethical standards and engage in mediation, to PlanetFeedback.com, an online database of consumer ratings, complaints, compliments, feedback, and letters for a vast array of companies.

While government entities have spoken about a (quite legitimate) need to insure that merchants in cyberspace fulfill their contracts, private industry has rushed in to fill the void. As is proven over and over, if a need is real the market will insure it is satisfied. Left alone, the market will come up with the most effective, efficient, and cost-justified tools to do the job. □

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IDEAS ON LIBERTY
MARCH 2002

The Man Who Ate Hamtramck's Government

In November 2000 Louis Schimmel swept away the government of Hamtramck, Michigan, and literally took over the city—lock, stock, and barrel. Appointed by Governor John Engler under a 1990 law that allows the state to assume temporary control of a dysfunctional municipality, Schimmel has transformed the finances and the infrastructure of Hamtramck. The result speaks volumes about the virtues of things like common sense and privatization.

But first some background. How did this town of 23,000, an independent enclave entirely surrounded by the city of Detroit, get into dire straits to begin with? It's a case study of unions run amok and politicians unmindful of other people's money.

Poorly negotiated contracts with city employees' unions failed to establish a strong link between job performance and pay levels. For example, Hamtramck's contract with the American Federation of State, County, and Municipal Employees (AFSCME), the union that represents city clerical and Department of Public Works (DPW) employees, provided for annual wage increases of as much as four times the rate of price inflation. Work rules stymied productivity, and while the city's population fell by more than half during the last 50 years, the size and expense of the city work force resisted any adjustment. AFSCME-represented city employees were entitled to up to 40 paid vacation days a year, plus 15 paid sick days, 13 paid holidays, three paid emergency leave days, and three paid personal days. On top of all that, each employee also got a paid day for his birthday!

City services deteriorated, driving taxpaying people and businesses elsewhere, but city workers made out like bandits. They neglected their jobs, sometimes to the point of threatening the health and safety of citizens. Garbage lay in the streets for as long as seven weeks, dramatically increasing Hamtramck's population of rats and other disease-carrying scavengers and pests.

The DPW suffered from poor equipment, inadequate supplies, and lax supervision. The city had 95 fire hydrants that either did not work or were in need of repair, and DPW did not know how to fix them. To make matters worse, Hamtramck officials were prohibited by union contracts from subcontracting out any work, including fire-hydrant repair and garbage collection.

When the governor put Schimmel in charge of the city, the council and mayor were at loggerheads over everything, even as a deficit of $3 million in a budget of $16 million stared them in the face. About his first day on the job, Schimmel told the *Metro Times*, "Everything was such a mess."

Yes, dear readers, this was what a government had done to itself and to the citizens it was supposed to serve. All that talk about selfless "public service" was laid bare in terms more vivid and tragic than in any other Michigan city in recent memory. This

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wasn't public service; it was more like *serve yourself* at the expense of the public.

Work Force Slashed

With dictatorial powers that essentially put the mayor and city council out of business, Schimmel lost no time in making big changes. Just weeks into the job he fired nine people and eliminated 21 jobs that had been unfilled for some time. That was only the beginning. By the end of his first year, he reduced the bloated, featherbedded work force by 17 percent, from 162 to 135 employees.

He negotiated a new contract to provide for privatization of all DPW work. This arrangement has allowed the city to contract competitively with private-sector firms for trash pickup, fire-hydrant repair, tree trimming, snow plowing, street repairs, water and sewer line repairs, and nearly all other services formerly provided by the DPW. By public auction, he sold off unnecessary city vehicles and equipment for $186,000. Services have improved dramatically. At much lower cost, garbage actually gets picked up on time now, trees really do get trimmed, snow actually gets plowed, and across the board, a day's work for a day's pay genuinely takes place in Hamtramck.

It didn't come easily. Schimmel had to sit down, look the union bosses squarely in the eye, and tell them in no uncertain terms that times had changed. "You're going to have to work. You have to put in an eight-hour day," he advised them from across the bargaining table. They squealed and they squirmed but in the end, they had no choice but to get honest with the taxpaying public that was paying their salaries.

One reason, perhaps the main reason, that the unions came around was that Schimmel's track record clearly suggested he was a man of action. For four years in the late 1980s, he was the court-appointed receiver for the bankrupt city of Ecorse, about a 20-minute drive downriver from Hamtramck. There he privatized almost everything, disciplined the unruly unions, and eliminated a huge city deficit.

Before the Hamtramck takeover, the city owned a fairly large amount of untapped capital in the form of idle land. Under Schimmel, the city is leasing land for a cellphone tower that now generates $26,000 annually. He is in the process of selling other land to local commercial enterprises.

Before Schimmel arrived, the city operated a parking-meter system that was in a constant state of disrepair. A large number of meters did not work, and parking enforcement was almost nonexistent. The system has been the subject of scandal, with allegations of money being stolen from the meters. City parking lots were in disrepair as well. Schimmel directed the city to sign a lease with its own Downtown Development Authority (DDA) to provide for the operation of the parking system. The DDA, in turn, is repairing the parking meters under Schimmel's watchful eye and at the same time, contracting out the management of the parking system.

Schimmel has renegotiated police and fire personnel contracts that had been over generous (annual pay hikes of nearly 10 percent per year for police officers, for example). Wage hikes in the new contracts were adjusted to be more in line with inflation, departments were reorganized, and 15 positions were eliminated. The annual savings from those measures alone have amounted to $1.6 million.

Louis Schimmel is still busy fixing Hamtramck and downsizing its public sector, but he's looking forward to finishing the job by the end of the year. He'll leave behind a decidedly smaller city government, lots of newly privatized and spiffed-up services, and a city that has a chance to function and attract people and business once again.

Once again, the private sector has come to the rescue of the public. □

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IDEAS ON LIBERTY
MARCH 2002

A New Old American Concept of Political Liberty

by Norman Barry

It is odd that a libertarian should have a conception of political liberty at all. Isn't it the case that there is a permanent war between freedom and politics? Surely any reduction in the political sphere produces a concomitant increase in individual liberty. Has not choice in the market, characterized by personal autonomy and spontaneity, been the biggest victim of the voracious appetites of the rent-seekers (privilege-seekers) who constitute the political class? Does not the most meretricious and superficially appealing form of coercion come exclusively from politics? Sometimes this is so skillfully marketed that it is not even noticed as coercion, especially when it is linked to the allure of democracy. But, of course, democracy has not restrained Leviathan and modern liberal democracies generate little more than coalitions of private interests intent on redistribution.

Yet libertarianism (also called classical liberalism) is undoubtedly concerned with politics: even an attempt to reduce seriously the range of politics is a kind of a political act. And it is true that libertarians have written extensively about politics, albeit from a negative perspective. This can be summed up in one question: how do we reduce the range of human activities subject to collective-choice procedures? For although communism may be more or less dead, it is the increasing range of human actions subject to collective procedures that is the most pressing concern of our times.

For classical liberals this is partly a problem of welfare economics: if the market has been removed from economics, what mechanism is there for determining the production of so-called public goods that is consistent with individual choice? But also it is a matter for ethics: what moral philosophy can mandate the state in its exercise of that power which peaceful and moral citizens do not have?

Libertarians have traditionally answered both questions from a constitutionalist's perspective. A constitution not subject to majoritarian procedures could both delineate the appropriate range of public activities *and* provide protection for individual rights. In a libertarian political (but constitutional) world there would be a set of delineated rights, with economic and civil rights being symmetrical. Even if that were a common-law order without a rights document, its *unspecified* liberties would be immunized from the otherwise remorseless contagion of statute, which has been the fate of Great Britain.[1]

However, the libertarian's depoliticized constitutional order has proved to be little more than a utopia; it has been unable to resist the seemingly inexorable encroach-

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ment of politics on our liberties. Mere "parchment protections" have proved to be fragile defenses against vote-maximizing in a democracy. Indeed, in Europe the replacement of allegedly arbitrary monarchies by democracies has probably reduced liberty and generated a new type of lawlessness.

But the unleashed majority has not been the only agent in this process, for one of the much-vaunted protectors of liberty has proved to be a significant factor in its corrosion—I mean the judiciary. As we shall see, in America especially, some of the most decisive events in the retreat from liberty have been controversial judicial decisions, many of which, ironically, did not even have the imprimatur of the majority.

One of the major reasons for the decline of liberal constitutionalism has been the gradual judicial destruction of the one liberty-preserving aspect of that order—competitive federalism.[2] Just as choice in the marketplace ensures the best goods and services, so choice in the market for law and other public goods guarantees a meaningful political liberty. In America constitutionally protected (specifically by the Tenth Amendment) competitive federalism has been whittled away. In Europe, which does not have a constitution, it is being eliminated by the decline of jurisdictional competition between the member states of the European Union.

Competitive federalism to a great extent removes the malign influence of the judiciary in the determination of crucial elements in the legal order and reduces the role of the *monopoly* state in the production of public goods. It does this by restoring choice and removing the need for complex and unworkable constitutional rules for the limitation of political authority. Most important of all, it makes *exit* a realistic option compared to the costly, freedom-reducing, and cumbersome method of *voice* in the determination of policy. If you don't like the regime under which you live, you simply leave it subject only to a narrow framework of rules that guarantees the right of entry and exit.

Competitive federalism requires minimal constitutional rules. This is not devolution, or even conventional federalism with its vain attempt to preserve appropriate spheres for layers of governments. Importantly, it excludes the possibility of "subordinate" tiers in a federal regime externalizing their costs onto the center, that is, the taxpayer. This is a process that leads to massive rent-seeking by employees of the "national" government. Note that the much-heralded welfare reform in the United States in 1996 was thought to be partly a triumph of federalism since taxpayers' money was returned to the states for them to spend as they wished. But it wasn't competitive federalism since it removed financial autonomy from the states. Under competitive federalism they need have no welfare at all; whether they did would be a function of the choice of citizens with the exit option for those who object. If they did have welfare the states' taxpayers would have to pay for it themselves. A welfare system would, presumably, be unattractive in the political market.

Competitive Federalism and the American Founding

We can get a good idea of what competitive federalism means by looking back at the founding of the United States.[3] Under the Articles of Confederation (ratified in 1781) there was no executive government and the passing of any law was a matter of unanimity of the component states, as was the collection of taxes. This meant that in practice the 13 states were entirely self-governing. In the debate between the federalists and the anti-federalists the defects of the prevailing system were undoubtedly exaggerated. And they were certainly not insoluble. Even the internal tariffs that apparently existed under the confederacy would have eventually been competed away: that is what competitive federalism does.

But the reflections on human nature and political man of the federalists and the anti-federalists were remarkably similar. Both sides took a realistic, pessimistic view of man. The potential depravity of political man was recognized and with it the need for appropriate institutions to protect freedom

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What the anti-federalists were supremely aware of was the difficulty for the citizens to control their governors over a wide area and with an increasing population; the extended republic reduced the power of the citizens.

and property. Both were aware of the "social dilemma," namely, the fact that unbridled egoism, especially outside the market, would produce outcomes unwelcome to everybody, including the egoists. Self-interest is not always benign, especially in politics. Those in office would use the privileges of government to their own advantage unless there were agreed-on rules of restraint. The anti-federalists shared Madison's fear of factions: groups smaller than the whole that would use politics to secure income they could not earn in the market. They were especially cognizant of the peril posed by *majority* factions.

Where they differed was over the remedies for these deficiencies. The anti-federalists favored political competition, the federalists a sanitized state and constitutional order, though it is apparent that Madison was groping toward some notion of political competition. In a famous phrase from Federalist 51 he said that "ambition must counteract ambition" and went on to describe a system that he hoped would provide the right incentives to make individual striving consistent with the public good. He probably thought that the federal system he devised would provide a surrogate version of market competition.

But in his equally famous demonstration of the virtues of republicanism, as opposed to democracy, he revealed his misunderstanding of federalism. In Federalist 10 Madison claimed that the worst effects of factions would be dissipated by the "extended republic." That over a wide area and under two layers of government, state and federal, factions would not be able to organize effectively to divert income and power to themselves. However, that proved not to be the case, and the federal government ineluctably increased its power and accumulated the citizens' wealth despite the elaborate protective devices of the Constitution.

It was not just the amendments added later, such as Fourteenth (1868), the Sixteenth (federal income tax, 1913), and the Seventeenth (direct election of senators, 1913), that were decisive, though I do not wish to underestimate their importance. The seeds of ultimate decay were already written into the original document, for example, the direct effect of laws (bypassing the states), the power to raise revenue, and extensive judicial review exercised by the Supreme Court. (While some argue that the Constitution contains no authority for judicial review, the anti-federalists feared the judicial powers as stated in the Constitution and described in *The Federalist Papers*.)

What the anti-federalists were supremely aware of was the difficulty for the citizens to control their governors over a wide area and with an increasing population; the extended republic reduced the power of the citizens. The anti-federalists were quite familiar with what is called by modern public-choice theory "rational ignorance." The costs and benefits of political activity are such that it is just not in the rational self-interest of most people to expend any time and energy on it. This means that only a minority, whose opportunity costs are quite low, will bother to participate. They are the least likely to promote the public good and the most likely to grab the economic rent created by others.

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Local Government Favored

The answer, according to the anti-federalists, was not the extended republic but enhanced *local* self-government. That government which is closer to the people is more easily controlled by them and, ultimately, removable by them. Under proper competitive federalism people would leave jurisdictions that did not meet with their approval. Any order that persisted with costly import controls, high taxes, and regulation would quickly be punished by the market—a much more effective mechanism than the democratic vote or a written constitution for the protection of liberty. Note how the congressional power to regulate *interstate* commerce, originally designed to ensure free trade between the states, eventually, with the help of the Supreme Court, became the power to regulate *intrastate* commerce. This did not mean a freer market—quite the reverse.

And the anti-federalists grasped a key point about modern democratic federalism when they observed that while it may be relatively easy to impose new legal restrictions on trade and personal liberty, in a world of rational ignorance and voter apathy it is extraordinarily difficult to get them removed.

The anti-federalists also saw that protection for liberty provided by an independent judiciary was paper-thin. In their view the federal judiciary was ultimately a body of the central government and was therefore bound to pass judgments favorable to it. That is exactly what has happened. The Supreme Court has struck down little more than a hundred congressional statutes while it has outlawed thousands emanating from the states. And in an uncanny premonition of modern liberal jurisprudence, the anti-federalists noted how activist judges would try to distort the meaning of the law in a deceptive attempt to capture its hidden meaning. As "Brutus" brilliantly put: "And in their decisions they [the judges] will not confine themselves to any fixed or established rules, but will determine, according to what appears to them, the reason and spirit of the constitution."[4] This is the perfect anticipation of modern liberal jurisprudence, with its notion of the "living Constitution."

Uncanny Predictions

In retrospect, it is amazing how so many of the predictions of the anti-federalists proved to be true. Or not at all surprising if their comments on human nature are accurate, as libertarians believe they are. In the absence of competition, they noted, the inherent profligacy of government was virtually uncontrollable.

And once again it was the percipient Brutus who posed the serious question: would the new government "absorb and swallow up the state governments"?[5] Under the proposed constitution he thought that it would. And he was right. At the turn of the twentieth century, 70 percent of public spending was by the states and a mere 7 percent by the federal government (the rest was by local governments). Now the position is almost exactly reversed and all attempts to control federal spending under the present constitutional rules have failed. In law, the old constitutional constraints are more or less senescent and in economic matters the federal government can do almost what it likes.

Under "liberal" justices the arm of the federal government has extended to repressive economic regulation; and they have vastly expanded "civil rights" in a manner not authorized by the Constitution. Both forms of intervention favor particular groups (factions) and render the rule of law meaningless. And it was the Supreme Court that officially declared the death of federalism in *Garcia v. San Antonio Transit Authority* (1985). Here, the Tenth Amendment, which states that all powers not granted to the Congress under Article 1, are reserved to the states (or the people), was ignored and federalism was redefined to mean the representation of the states in Congress. But without constitutional (as opposed to political) protection, federalism is a fragile instrument indeed.

Many libertarians in America, especially public-choice theorists,[6] recommend a constitutional revolution by which they hope to

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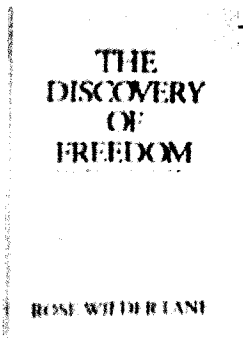
recapture the form of the original system: to restore proper federalism, dilute taxation power, reduce the power of the executive under a rewritten separation of powers, and severely limit the power of government, especially the federal element. But I wonder whether such a reconstruction would be adequate, for it still depends on the delineation of the various powers and enforcement by an impartial judicial system committed to not expanding these powers. It still *licenses* government rather than strictly *limits* it.

Only in Switzerland have federal constraints been preserved: there the 26 cantons still spend more than the federal government and, despite some nationalized welfare, they still handle the things that affect people directly. The original federalist intent, in America and elsewhere, can only be restored if the original *political* liberty is recaptured: that means jurisdictional competition underpinned by the ultimate right of secession.

The European Union had a splendid opportunity to foster jurisdictional competition within an international framework, but it quickly embarked on a centralizing path, led by politicians and an activist European Court of Justice and proceeding at an even faster rate than the American federal union. The right of secession has never been included in the treaties that make up the curious constitutional order of Europe. "Harmonization," not jurisdictional competition, has become the lodestar of European politics; with some brave resistance from Britain and Ireland, which have preserved some independence in taxation.

All written constitutions are inadequate surrogates for a genuine political liberty. For true freedom is found in the active exercise of choice: either in the market for goods and services or the competition for laws and institutions. If that competition is attenuated, and citizens are left with only the threadbare protections of democracy and an activist judiciary, they will soon have little liberty at all. □

1. See F.A. Hayek, *Law, Legislation and Liberty*, vol. 3 (London: Routledge and Kegan Paul, 1979).
2. See Thomas R. Dye, *American Federalism: Competition among Governments* (Lexington, Mass.: Lexington-Heath, 1990).
3. I have taken much of the following from an unpublished paper by the late Peter Aranson, "Federalism at the Founding," Liberty Fund, Bad Homburg, May 1991.
4. *The Anti-Federalist Papers*, Herbert J. Storing, ed. (Chicago: University of Chicago Press, 1981), p. 165.
5. Ibid., p. 138.
6. Known collectively as the Virginia school. Prominent figures are James Buchanan and Gordon Tullock.



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Nullification: The Jeffersonian Brake on Government

by Thomas E. Woods Jr.

Thinkers in the classical-liberal tradition, to the extent that they support a coercive state at all, speak routinely of the importance of keeping government strictly limited. To that end, the United States has a written Constitution, which enumerates the relatively brief list of tasks entrusted to the federal government and whose Tenth Amendment makes clear that any power not granted to the federal government resides in the states, the authors of the federal compact.

That is all well and good, but how does a theoretically limited government remain so? Some have argued that it is impossible to restrain a government over time.[1] The framers of the Constitution, for their part, were well aware of the tendency for power to concentrate and expand. Thomas Jefferson spoke of the calamity that would result if all power were vested in the federal government. To be sure, the Constitution was something of a barrier to such tendencies, but any constitution is, after all, only a piece of paper and cannot enforce itself. Checks and balances among the executive, legislative, and judicial branches, a prominent feature of the Constitution, also provide little guarantee of limited government, since these three federal branches can simply unite against the independence of the states and the reserved rights of the people. That is precisely what Jefferson warned William Branch Giles was already happening in 1825: "[I]t is but too evident, that the three ruling branches of [the Federal government] are in combination to strip their colleagues, the State authorities, of the powers reserved by them, and to exercise themselves all functions foreign and domestic."[2]

What is necessary, therefore, is some mechanism whereby the federal government may be kept limited and unconstitutional measures frustrated and overthrown. In 1798 Jefferson believed he had identified such a mechanism: the constitutional remedy known as nullification.

First, some historical background. Amidst the naval skirmishes and diplomatic tension associated with what historians refer to as the Quasi-War with France, the Federalists managed to enact legislation that would become notorious: the Alien and Sedition Acts. The prohibition of seditious libel concerned them most.

For Jefferson, the objection wasn't only that the prohibition would be enforced in a partisan way—though of course it was, with

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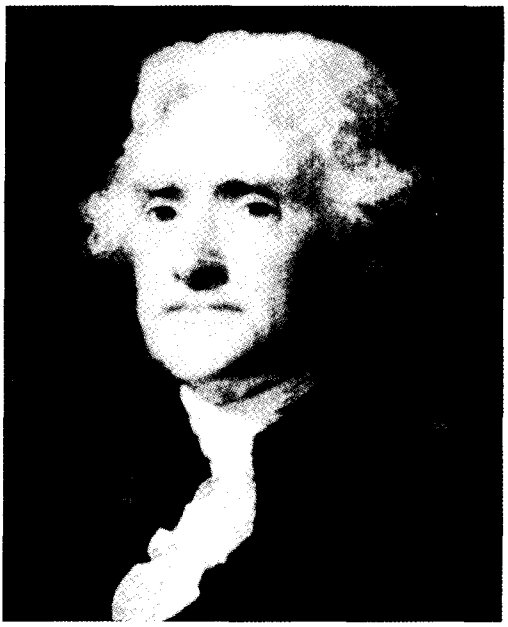
many Republican newspapers and spokesmen targeted for harassment, fines, and even jail time. (Correspondence between Jefferson and Madison at the time includes complaints about mail tampering.[3]) It wasn't that seditious libel could be arbitrarily or loosely defined—although, again, in practice it was: one poor soul who expressed the fond wish that the presidential saluting cannon would "hit [President John] Adams in the ass," was fined $100.[4] It wasn't even the curbing of free speech per se, although Jefferson based part of his objection on what he considered the acts' violation of the First Amendment. (At the time, however, the consensus appears to have been that "the punishment of a seditious libeler did not abridge the proper or lawful freedom of the press."[5])

The cornerstone of Jefferson's objection was that the acts violated the Tenth Amendment, which to him was the foundation of the entire Constitution. Nowhere had the states delegated any authority to the federal government to pass legislation pertaining to the freedom of speech or press. In doing so, then, the federal government had encroached on a state prerogative. For Jefferson, who spoke of binding men by the chains of the Constitution, immediate action was necessary lest such federal usurpations begin to multiply.



PAINTING BY GILBERT STUART. COURTESY BOWDOIN COLLEGE MUSEUM OF ART.

Thomas Jefferson (1743–1826)

Remedy Short of Revolution

Was there a constitutional remedy—that is, a solution short of the extreme measures of secession or violent revolution?[6] Figures like Daniel Webster and Joseph Story (and later Abraham Lincoln) thought not. Since they subscribed to what might be called the nationalist theory of the Union, whereby the U.S. Constitution had been adopted by the entire American people in the aggregate rather than as a compact among sovereign states, what will be described below as "nullification" appeared to them to be an unlawful revolt by an arbitrary portion of the people rather than as an exercise of sovereignty by a sovereign body.

James Kilpatrick put the question this way: "Are the alternatives two only: submission, or arms? Is the choice truly confined to an acceptance of tyranny on the one hand, or a resort to the sword on the other? Every consideration of reason, common sense, and constitutional theory demonstrate that in a civilized an enlightened society, disputes are not to be so resolved."[7] Jefferson agreed.

Certainly the federal government, which was merely the agent of the states, could not be permitted to have the exclusive authority to make commanding judgments about the Constitution, since the obvious long-term consequence would be the eventual concentration of power as it consistently handed down rulings in favor of itself. The states had to be able to make their own interpretations of the Constitution count for something. Even Alexander Hamilton had envisioned a role for the states in restraining the federal government, arguing in Federalist 28 that "the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority."

As far as Jefferson could see, the only way a state could both remain in the Union and retain its liberties in the face of an unconstitutional act by the federal government was for that state to declare the federal action null and void and refuse to enforce it. This

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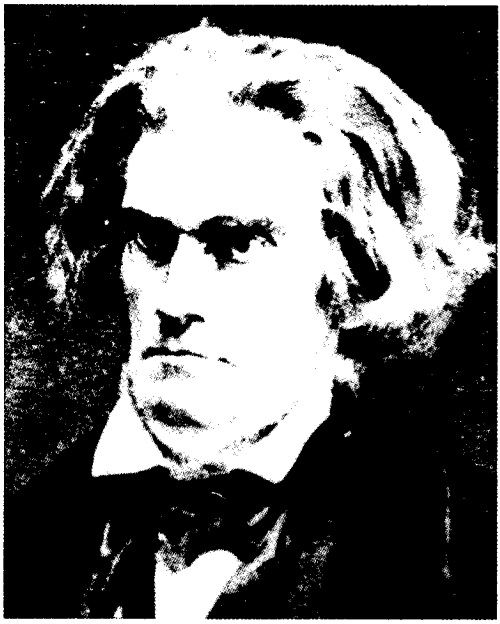

DAGUERREOTYPE BY MATTHEW BRADY. COURTESY LIBRARY OF CONGRESS.

John Caldwell Calhoun (1782–1850)

was not a recourse to which a state should resort except in the most dire circumstances, of course. It is also a recourse that at first may well sound extreme and possibly unworkable. But the skeptic is invited to suggest another mechanism by which the "rights" of the states may be secured and the federal government kept in check. If the federal government has all the power to interpret the Constitution and the states none, no one has a right to be surprised when the states, as in our own day, are totally eclipsed.

There is, obviously, no provision in the Constitution that explicitly authorizes nullification. That was not Jefferson's point. He, and later John C. Calhoun, suggested that it was in the nature of compacts that no one side could have the exclusive right of interpreting its terms. This was especially true in the case of the federal compact, since Jefferson and Calhoun contended that the federal government *was not a party to it*, having itself been brought into being by the joint action of the states in creating a compact among themselves. Since the federal government was merely the agent of the states, it could hardly presume to tell the states, with no room for disagreement or appeal, what their own Constitution meant.

An anonymous Jefferson (who was vice president at the time, it is useful to recall) penned what became known as the Kentucky Resolutions of 1798, which spelled out the objectionable aspects of the Alien and Sedition Acts as well as the states' rightful response: nullification. (No state actually nullified these acts; the crisis with France came to an end, and the acts were slated to expire in early 1801 in any case.) James Madison penned similar resolutions that were approved by the Virginia legislature.

Let us recall some of Jefferson's most potent words, ratified by the Kentucky legislature:

> Resolved, that the several States composing the United States of America, are not united on the principles of unlimited submission to their General Government; but that by compact under the style and title of a Constitution for the United States and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself, the residuary mass of right to their own self Government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force: That to this compact each State acceded as a State, and is an integral party, its co-States forming as to itself, the other party: That the Government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common Judge, each party has an equal right to judge of itself, as well of infractions as of the mode and measure of redress.[8]

The great theorist of nullification was Calhoun, one of the most brilliant and creative political thinkers in American history. The Liberty Press edition of Calhoun's writings, *Union and Liberty*, is indispensable for any-

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one interested in this subject—especially his Fort Hill Address, a concise and elegant case for nullification. Calhoun imagined a state holding a special nullification convention, much like the ratifying conventions the states had held when debating the Constitution, and settling the matter there. This is how it worked in practice in the great standoff between South Carolina and Andrew Jackson: when South Carolina nullified a protective tariff in 1832 (its argument being that the Constitution authorized the tariff power for the purpose of revenue only, not to encourage manufactures or to profit one section of the country at the expense of another—a violation of the general-welfare clause), it held just such a nullification convention.

Madison's Last Word?

That Madison indicated in 1830 that he had never meant to propose either nullification or secession either in his work on the Constitution or in his Virginia Resolutions of 1798 is frequently taken as the last word on the subject.[9] But Madison's frequent change of position is well known.[10] Albert Taylor Bledsoe was blunt: "The truth seems to be, that Mr. Madison was more solicitous to preserve the integrity of the Union, than the coherency of his own thoughts."[11]

It is true that, at the time, Virginia and Kentucky found little support among the other states for their resolutions (since some of those states were strongly Federalist, they frankly supported the anti-sedition legislation) and South Carolina was all alone in 1832–33. But actions speak louder than words, and if Northern states sharply criticized the nullification of the Tariffs of 1828 and 1832, on the other hand they lifted entire phrases from the Virginia and Kentucky Resolutions of 1798 when themselves nullifying the fugitive slave laws.[12]

The most common argument against nullification is that it would produce chaos, with a bewildering array of states constantly nullifying a bewildering array of federal laws. Given the character of the vast majority of federal legislation over the past several decades (and longer), it is difficult to imagine a libertarian viewing this as an especially grave difficulty.

Having said that, there is little reason to believe that chaos would actually ensue. Consider the historical record. That Americans generally acknowledged the right of a state to secede from the Union—a far more extreme remedy, surely, than nullification—is evident from the number of cases in which states threatened to exercise this option.[13] Abolitionist and pro-slavery spokesman, protectionist and free trader, all at one time or another counseled secession. Yet was the Union overwhelmed with acts of secession before 1860? Most people have little desire to endure a state of crisis for frivolous reasons. But there can be no doubt that the ever-present threat that an oppressed state might withdraw had the salutary effect of restraining the federal government's exercise of power.

Moreover, to the fear that nullification would lead to intolerable disorder, James Kilpatrick reminds us of the disorder that characterizes the present system: "If power-hungry federal judges may impose one unconstitutional mandate, they may impose a thousand, each more oppressive than the one before." Is this not its own kind of disorder? "But if the Constitution is over the [Supreme] Court, who or what finally is over the Constitution? *It can only be the States*, who under Article V alone have the power to amend or rewrite it." The theory that the Supreme Court's interpretation of the Constitution must necessarily be the final word effectively concedes to that body the right substantively to amend the Constitution to mean what the Court says it means. But the right to amend clearly rests with the states. "How, then," Kilpatrick wonders, "may it be urged that the States 'unequivocally surrendered' the control of their most fundamental rights, in the last resort, to a Court they themselves created?"[14]

It is hard to find fault with Kilpatrick's reasoning. In my experience, however, the squeamish always seem to fall back on some hard case that allegedly renders nullification impracticable, even dangerous. Thus, one

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might argue, even if the doctrine of nullification did not degenerate into general confusion in peacetime, what should happen if a state or group of states should invoke it during war, potentially threatening the nation's security? Most proponents of nullification have correctly noted that it is precisely in such situations that we would logically expect the interests of the states to be most consonant and their allegiance to the federal government most secure. More to the point, one might well wonder what a group of states was doing in the same union in the first place if a portion of them actually desired to sabotage the prosecution of a just war.

The main point that nullification aims to address is that a government allowed to determine the scope of its own powers cannot remain limited for long. This is a lesson we should have learned by now. Moreover, since piecemeal solutions to reducing federal power have accomplished nothing, we can hardly afford to dismiss out of hand the idea of nullification, a remedy that is at once creative and intelligent, and recommended by some of the greatest political thinkers in American history. □

1. Thus see Hans-Hermann Hoppe, "On the Impossibility of Limited Government and the Prospects for a Second American Revolution," in *Reassessing the Presidency*, ed. John V. Denson (Auburn, Ala.: Ludwig von Mises Institute, 2001), pp. 667–96.

2. Thomas Jefferson to William B. Giles, December 26, 1825; http://etext.lib.virginia.edu/jefferson/quotations/jeff1060.htm.

3. Cited in William J. Watkins, Jr., "The Kentucky and Virginia Resolutions: Guideposts of Limited Government," *Independent Review*, Winter 1999, p. 391.

4. Paul Johnson, *A History of the American People* (New York: HarperCollins, 1997), pp. 240–41.

5. Leonard W. Levy, *Constitutional Opinions: Aspects of the Bill of Rights* (New York: Oxford University Press, 1986), pp. 165ff.

6. Although one can make a fairly substantial constitutional case for secession, and thus in a sense secession *is* a constitutional remedy, what Jefferson was seeking was a solution in which a state could remain in the Union while at the same time resisting an act of federal oppression.

7. James J. Kilpatrick, *The Sovereign States: Notes of a Citizen of Virginia* (Chicago: Henry Regnery, 1957), p. 190.

8. Virginia Commission on Constitutional Government, *We the States: An Anthology of Historic Documents and Commentaries thereon, Expounding the State and Federal Relationship* (Richmond, Va.: William Byrd Press, 1964), pp. 143–44.

9. James Madison to Edward Everett, August 28, 1830; reprinted in *North American Review*, October 1830, p. 537.

10. Professor Constantine Gutzman of Western Connecticut State University, who has written extensively on Madison and his role in (and later recollections and interpretation of) the events of 1798, is particularly scathing on this point: "[Madison] could have listened to the wisdom of the leading men of his state, but he chose first to denigrate them, then to ignore them, and, once his own cohort had died off, to distort their and his own record." K.R. Constantine Gutzman, "'Oh, What a Tangled Web We Weave. . .': James Madison and the Compound Republic," *Continuity*, Spring 1998, p. 28. Gutzman argues that despite his later protestations, Madison certainly appeared to be calling for nullification in 1798; see Kevin Raeder Gutzman, "From Interposition to Nullification: Peripheries and Center in the Thought of James Madison," *Essays in History* 36 (1994), pp. 89–113.

11. Albert Taylor Bledsoe, *Is Davis a Traitor? or Was Secession a Constitutional Right Previous to the War of 1861?* (Richmond, Va.: Hermitage Press, 1907), p. 174.

12. Kilpatrick, pp. 214–15.

13. Thus see Thomas J. DiLorenzo, "Yankee Confederates: New England Secession Movements Prior to the War Between the States," in *Secession, State and Liberty*, ed. David Gordon (New Brunswick, N.J.: Transaction, 1998).

14. Kilpatrick, p. 194.

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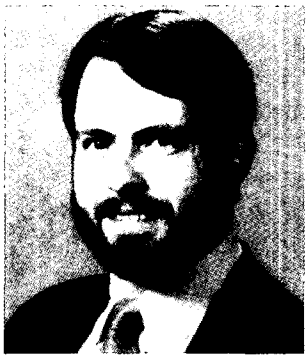

Free to Be Stupid

America is a great country. What better evidence is there than the opportunity for people to say the stupidest, most witless things?

Many people probably think that Washington, D.C., has a monopoly on idiocy. Not true. While the nation's capital is often, indeed usually, void of common sense and good judgment, dumb comments sometimes rise outside the capital. Consider the esteemed bookstore chain of Barnes & Noble. It regularly hosts author book signings. Among its recent guests was Bill Ayers, university professor and author of *Fugitive Days: A Memoir*. It turns out that as a 1960s radical Ayers expressed himself by planting bombs. As he told the *New York Times*, "I don't regret setting bombs. I feel we didn't do enough."

Hosting an avowed terrorist seems particularly odd after September 11, but Barnes & Noble Vice President Mary Ellen Keating decried "censorship" in refusing to cancel his appearance after customer complaints. Canceling would have been good judgment, not censorship.

Ayers sought to help by writing a letter in which he termed the events of September 11 "an appalling crime" and avowed that he "never intended to injure or kill other human beings." Perhaps he was using kinder, gentler bombs. But Ms. Keating went further, claiming that to cancel his planned appearance "would be to give in to our fears, and ultimately to validate the position of our enemies."

Would Al Qaeda terrorists really celebrate if Barnes & Noble decided not to let an admitted domestic terrorist promote his book? As James Taranto mordantly observes in his "Best of the Web" compilation for the *Wall Street Journal*'s OpinionJournal.com, "Terrorists win if we *don't* let terrorists cash in on their past crimes? This has got to be the most twisted use of the 'we can't let them win' cliché yet."

Criticism of the refusal to support speech with which one disagrees has made it into the *Los Angeles Times*. Freelance writer Nora Vincent is tired of all the complaints about the stupid things academics and celebrities have said about terrorism, war, and more. She's appalled at the argument that exercising free speech means being willing to accept the consequences of doing so—as in, if people don't like what you say, they can call you a jerk and treat you like one. Criticism is okay she says, but not "putting a gun to the speaker's head," which would make the First Amendment "meaningless." Actually, doing so would violate the criminal law and, appropriately, land you in jail.

Firing someone would also violate the First Amendment, argues Vincent: "After all, how free can your speech be if your job is in peril if you say the wrong thing?" Unfortunately, she obviously knows nothing about the First Amendment, which only applies to governments. And appropriately so. Say her hometown newspaper, the *New York Times*,

Doug Bandow, a nationally syndicated columnist, is a senior fellow at the Cato Institute and the author and editor of several books.

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hired a columnist to write about world affairs and that person turned out to be a Nazi. Would it really violate the First Amendment to fire him?

By the same token, she writes, "yanking advertisements from network television shows should also be unconstitutional." To "remain true to the spirit of the First Amendment," Vincent argues, we should pass a law preventing "advertisers from revoking their support for shows." In fact, any show unwilling to risk having its funding pulled can ask for a contractual guarantee, and any advertiser is free to say no.

The Library and the Flag

In Boulder, Colorado, an employee asked the library to hang a flag in the glass entrance. Art Director Marcellee Gralapp said no, it "could compromise our objectivity" and she wanted "people of every faith and culture" to "feel welcome."

I'm not much of a flag waver, but how would this compromise the library's "objectivity" and make people feel unwelcome? Boulder is in the United States, is it not? Perhaps the problem was space—at the same time that the library was refusing to allow the flag to hang, it displayed 21 ceramic, uh, penises in its gallery in an exhibit titled "Hung Out to Dry." A sign alerted visitors that "this exhibit contains mature material that may be objectionable to some." So much for making everyone feel welcome. (A disgruntled patron soon absconded with the exhibit, later returning it to police. Local authorities, apparently upset with his variant of "performance art," brought criminal charges against him.)

Anne Muller of Wildlife Watch doesn't like hunting. But not because of animals. She fears terrorism. Hunting, she explained, "is just a wonderful opportunity for someone who would want to do a terrorist act."

Thus she urged New York state to suspend the hunting season: "Armed and camouflaged individuals can get close to chemical, agricultural, business facilities, gas pipelines, electrical power lines, substations, transformers, and airports. Local police and environmental conservation officers will merely slough off concerns saying that the individuals are 'just hunting.'"

Because that's what they would be doing. As for terrorism, that is more likely to come from radical environmentalists. Groups like the Animal Liberation Front and Earth Liberation Front have been busy, even after September 11, damaging oil-exploration equipment, attacking research facilities, burning a primate research center, and firebombing a corral for wild horses. A few more private people roaming around with guns would probably help stop this sort of terrorism.

There are also stupid people in other countries. Very stupid people.

The British boy band Blue cut a video in New York City on September 11 and witnessed the destruction of the World Trade Center. The band members were later interviewed by the *Sun* newspaper. When the WTC attack came up, three of the members seemed appropriately horrified. But not 18-year-old Lee Ryan. He asked, "Who gives a [expletive deleted] about New York when elephants are being killed?" Why, he added, "Animals need saving and that's more important. This New York thing is being blown out of proportion."

His mates tried to shut him up. His music label took him to the woodshed, and he later apologized for expressing himself "in a very foolish and offensive way." Yes, it was that. We all do dumb things in life. But some people do extraordinarily dumb things. What value would freedom have if it did not include the opportunity to say the most stupid, witless things? □

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On Guests and Customers

by Stephen G. Barone

Nowadays, whenever I go shopping I seem to be a "guest" at every store where I used to be a "customer." But what occurs between a proprietor and his patron is the opposite of what occurs between a host and his guest. In fact, treating a patron as a guest would actually be a degradation of the relationship that properly exists between patron and proprietor.

A guest is invited into our home where he receives *gratis* our food, potables, incidentals, and hospitality. He has no avenue of recourse if any of it does not meet his expectations. His right to complain is tempered by our right to throw him out on his ear.

A proprietor, on the other hand, is held to higher standards. When people enter his store, he and they anticipate mutual benefits—neither is doing a favor for the other. His failure to provide goods commensurate with the expectations of his clientele is not only injurious to the enterprise, but also potentially litigable. In consideration of such stark contrasts, any shopkeeper would do well not to confuse his customers with guests.

There is lately a similar blurring between the words "customer" and "taxpayer." This shouldn't be a surprise. Public-sector bureaucrats are notorious for hopping on a bandwagon roughly about the time when private-sector managers are jumping off. Therefore, government agencies have taken to calling their forced constituencies "customers" just as the shopkeepers and bankers are abandoning the term and moving on to "guests."

Consider the IRS, whose personnel lately refer to us as "customers" rather than "taxpayers." It's annoying enough to be called a "guest" when my ostensible "host" is patently expecting money for his "hospitality." But it's downright maddening to be called a "customer" when I'm having money extracted from me ultimately at the point of a gun.

The essence of the relationship between customers and proprietors is the *voluntary* exchange of money for goods. But there is nothing voluntary about the taxes that are levied on us to redistribute the wealth. A true customer can refuse to do business with an entity. But refuse to pay taxes and your property is seized. Resist such appropriation of your resources and the police will demonstrate forthwith the state's "customer service policy" for its recalcitrant patrons.

Customers are not guests and taxpayers are not customers. Obfuscating such palpable differences does not engender warm and fuzzy feelings. Quite the contrary, it breeds cynicism and abets distrust, thereby hindering good will, which is precisely the opposite of what both ruses are supposed to achieve. □

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MARCH 2002

The Virtues of Sweatshops

by Stefan Spath

An acquaintance said to me the other day how appalling it is to see so many Americans revel in the gifts received during the holidays. "We should be ashamed of ourselves," he lamented. "Most of this stuff was manufactured in sweatshops." Such a misinformed notion shouldn't go unanswered because it reinforces this fallacy in the minds of those who don't know better.

It is not difficult to understand why he could so easily make this connection between manufactured goods from abroad and so-called "sweatshops." Over the past few years the issue of sweatshop labor has been thrust on the public's radar screen by high-profile cases involving such names as Kathie Lee Gifford and Nike Corporation.

However, the public at large seems to be on the fence with this issue owing to a lack of good information. What complicates the situation is the misinformation peddled by some who have ulterior motives that stretch far beyond ending so-called sweatshop labor, such as those who oppose capitalism itself.

The term "sweatshop," when used in this context, is meant to intimidate people into forming an opinion without considering the evidence. Who, after all, could be in favor of "sweatshops"?

Stefan Spath (sspath@fee.org) is executive director of FEE.

What are "sweatshops" anyway? If they're low-wage (by advanced standards), labor-intensive manufacturing facilities, they have existed throughout the world in different places and at different times, although now they tend to be concentrated in developing nations with large populations of low-skilled workers. This pattern of how and where labor-intensive manufacturing is conducted has an economic explanation evidenced by historical examples throughout the centuries. For similar reasons, the Persians bought textiles from the Phoenicians in the sixth century B.C.E.; the Venetians bought spices from Arab traders during the Renaissance; and the Portuguese bought wool from the English in the eighteenth century. It is why 90 percent of the VCRs sold in the United States today are manufactured in Korea. Specialization and the division of labor are guided by each particular country's comparative advantage. (Comparative advantage, as opposed to absolute advantage, refers to a group's relative superiority in producing a particular good vis-à-vis other groups compared to other goods.)

In nineteenth-century America, anti-sweatshop activism was focused on domestic manufacturing facilities that employed poor immigrant men, women, and children. Although conditions were horrendous, they provided a means for many of the country's least-skilled people to earn livings. Typically, those who worked there did so because it was their best opportunity, given the choices

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available. More often than not, through schooling and aculturation the children of those workers developed better skills than their parents and graduated into higher-paid occupations.

Today, of course, there are few primitive factories in the United States. That is because our economy has developed so that most Americans have educations and skills that command higher wages than workers in foreign countries with less-developed economies. As a result, the law of comparative advantage has guided the production of certain goods to countries with abundant low-skilled labor. This maximizes productivity both in developed and less-developed economies.

Working Conditions

How do working conditions, a legitimate concern, fit into the equation?

Last year a well-publicized but poorly organized sit-in at Harvard University put a spotlight on the working conditions of the school's janitorial staff. The students who took part in the operation used the plight of the campus workers to highlight what they described as the unfair working conditions of the world's poor. The word "sweatshop" was used repeatedly. The Harvard students wanted to force multinational corporations (MNCs) of the West to pay a "living wage" to foreign workers in the developing world, just as they were demanding of the university with respect to its custodians.

Do these self-proclaimed champions of the world's poor and their cries for "living wages" help those whom they purport to represent? Unfortunately, so many endeavors that start with good intentions do more harm then good. This too can be understood through an understanding of sound economics.

The vilified MNCs that have set up factories in developing nations have done so out of good business sense. By shifting production to an area where labor costs are least expensive, the cost savings can be passed on to consumers. However, MNCs compete for this labor, creating an incentive for those companies to make its employment opportunities the best choice among competing alternatives. Companies that establish factories with appalling work environments don't stand a chance competing for workers in a free market. This is why arguments about poor working conditions don't stand up to scrutiny.

It is true that the wages earned by workers in developing nations are outrageously low compared to American wages, and their working conditions go counter to sensibilities in the rich, industrialized West. However, I have seen how the foreign-based opportunities are normally better than the local alternatives in case after case, from Central America to Southeast Asia. There are myriad examples of large MNCs from the West contributing to programs that uplift entire communities, such as the *maquiladora* industrial towns of northern Mexico that have benefited from improved roads, water-purification plants, and the construction of entire school systems around new factories.

One must also consider how the machinations of special-interest groups in this country affect the public's image of so-called sweatshops and the "living wage" issue. Labor unions in the West do not exist to defend the rights of workers throughout the world. They exist to protect the job security of their dues-paying members. Union workers in the United States whose obsolescing skills put them at risk of losing their jobs to cheaper foreign labor use veiled comments and outright threats to intimidate lawmakers and hide their true intentions of self-preservation. When unions succeed at this, the cost of the inefficiency is spread out among millions of unsuspecting consumers who subsidize the unionists' job security through higher prices.

In other words, anti-trade activists, from labor unions to misguided students, try to prevent workers in developing countries from finding better opportunities to raise their living standards. Moreover, the protesters undermine the sovereignty of consumers. Consumers in the rich West, where the cost of low-skilled labor is prohibitively expensive, would benefit from the increased

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purchasing power and lower prices made possible by the shift of certain jobs to the developing world. The individual benefit may be small when spread out over tens of millions of consumers, but in the aggregate it eclipses the cost in lost jobs for a relative few in the industrialized economies. If anti-trade activists have their way, consumers lose.

New Jobs Created

Labor unions also obfuscate the issue by claiming that companies which establish operations in developing nations create unemployment in America. Such a claim is only half the story. Production in many of the most labor-intensive industries has been shifting over the past 25 years from the developed to the lesser-developed economies. However, unemployment in this country hit record lows over the same period. The capital freed from inefficient domestic lines has been redirected to growth industries where Americans have a comparative advantage.

Over the past generation, for every job in the textile or auto industry that was lost in the United States, two or more have been created in high-technology or other advanced industries. Rest assured, we probably won't see large American software firms opening manufacturing plants in China or large pharmaceutical companies relocating their R&D laboratories to Guatemala anytime soon—because high-skilled jobs require a level of worker education and skills that poorer countries cannot provide.

The harm to the parties on the other side of the equation is barely understood because they are thousands of miles away and lack the cohesiveness to counter the arguments of their developed-world self-proclaimed "advocates." Suffice it to say, they are not the ones clamoring for trade barriers to keep out Western corporations or protect inefficient American union workers. They want jobs and are willing to work for a wage commensurate with their productivity in their economies.

Sound economics teaches us that prices influence behavior. Wages are nothing more than the price of labor. If MNCs are compelled to pay wages comparable to those in the United States, even in countries where local labor-market conditions can't justify them, there would be no production-cost savings and hence no purpose in relocating to those countries in the first place. The poor of these less-developed countries would have fewer opportunities for work and would lose all the other benefits of foreign direct investment, which range from technology transfers to international trade integration. So activists like the Harvard students who believe their protests help the world's poorest workers actually harm them by pricing them out of the market and denying them the opportunity to develop their skills and economies.

Adam Smith's classic argument that trade increases the productivity and prosperity of all involved still applies today. The wealth of empirical evidence compiled over the past two centuries bolsters Smith's argument and should be used to counter the protests.

It turns out sweatshops aren't so bad. □

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MARCH 2002

America's Worst Enemy

by George F. Smith

I know a woman in her mid-80s who's doing quite well for herself. She maintains a house and large yard, cooks for her grandkids, and enjoys her bridge club. Yet, given the way our culture works, it's not unthinkable that Big Brother might someday send her a .38 for her birthday and invite her to check out.

As shocking as it sounds, this is the kind of outrage to expect when people surrender responsibility for their lives to others. Self-styled experts, such as the duty-to-die group, which includes former Colorado governor Richard Lamm, promote their views as good for "society." In their case, they believe if people have reached a certain age they've lived long enough, whether they're healthy or not.[1] Since many of these experts draw government paychecks, should it be surprising when some of their pronouncements get enacted into law?

Let's say the devil with them and take our lives back. It starts with an understanding of that weighty word, responsibility.

As psychologist Nathaniel Branden puts it, responsibility "requires that you consciously become the cause of the results that you want. [It is refusing] to behave like a victim or to wait for someone to save you from life's problems."[2]

If one result we want is political freedom, how do we consciously create it? By understanding what it is and promoting it in our personal and professional lives.

Our founders made exacting efforts to institute a government limited to our common defense, one that lacked the power to be nanny, bully, or thief. Unfortunately, they also said the state should promote the general welfare, which has sanctioned a meddlers free-for-all. But as *The Federalist Papers* attempted to make clear, this was not their intention. If we look at history we can see why: this country was created by spectacular acts of individual initiative. An obvious example is the signing of the Declaration of Independence. But it spread beyond a handful of elites in Independence Hall.

On July 9, 1776, the Declaration was read publicly in New York City, the first such reading outside Philadelphia. It was a document of outrageous treason to the ruling British government. Responsible citizens, no matter how just their grievances, did not take up arms against the king.

Some of the audience thought differently. After the public reading, they marched to nearby Bowling Green Park, where stood a lead statue of the king surrounded by a large iron fence. In a frenzy, they ripped down the fence, lassoed the statue, and tore it off its marble pedestal. Adding appropriate punctuation, they smashed the icon to bits and melted the lead into 42,000 musket balls they later used to fire upon the king's soldiers.[3]

By engaging in political treason against the most feared nation on earth, the colonists

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were signing their own death warrants, literally, for the right to take full responsibility for their lives.

As Representative Ron Paul, economist Walter Williams, and others have pointed out, the colonists put up with a lot less from a despotic king than we do from our elected officials.

It's tempting to believe we no longer fight for our freedom because the notion of "we're all in this together" has snuffed out personal responsibility. It hasn't, but its decline is being fostered by widespread semantic corruption, in which "freedom" has taken on the Orwellian features of slavery. The new freedom is "inclusive," we're told—as if the original freedom were not—and this requires strong state rule and unlimited funding to ensure everyone is equally free.

Fortunately, specious reasoning like this hasn't infected everyone. Two months before the Event That Changed Everything, citizens in Nashville, Tennessee, became incensed when they found out politicians were trying to institute a state income tax in an 11th-hour session of the legislature. Known reverently as the Tennessee Tea Party, over 1,000 people stormed the capitol, pounding on doors and hurling rocks at windows, one of which landed in Governor Don Sundquist's office. The protesters rallied outside for several hours until the senate backed down and passed a budget with no new taxes.[4]

Tragically, the sounds we heard after the 9-11 attacks were more pleading than protesting. "Save us," Americans cried to the government that failed to protect them.

Tightening Government's Grip

Politicians listened once again, but this time they passed "security" measures that in fact do little more than tighten government's grip on our lives. For instance, we're supposed to be relieved to know our intelligence services can now read terrorist e-mails legally—leaving "terrorist" to be defined as they see fit—when they already know that major terrorist organizations rely on steganography (hiding files within a file) to communicate messages. According to computer forensic experts, it's virtually impossible to even detect steganographic files, let alone discern their contents. So whose e-mail will Big Brother be reading?[5]

DOVER PUBLICATIONS

King George III's statue being torn down in New York City after a reading of the Declaration of Independence, July 9, 1776

Thankfully, in the post-cataclysmic rush to subdue freedom there have been significant acts of grassroots rebellion. One of the most brilliant came on September 15, 2001, the first day the government allowed airlines to resume service. As United Flight 564 pulled away from its gate in Denver en route to Washington, D.C., the pilot told his passengers their lives were in their own hands now—the government could not protect them.

"If someone or several people stand up and say they are hijacking this plane," he told them, "I want you all to stand up together. Then take whatever you have available to you and throw it at them. Throw it at their faces and heads so they will have to raise their hands to protect themselves.

"We will not allow them to take over this plane. I find it interesting that the U.S. Constitution begins with the words 'We, the people.' That's who we are, the people, and we will not be defeated."[6]

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Can you imagine the outcry to such an announcement before 9-11? The pilot would have likely been furloughed for stress, if not fired, and many of the passengers would have filed complaints.

On this day they broke into sustained applause, as did travelers on other flights who heard similar announcements. The passengers became instant patriots—in the sense of sharing with our founders their willingness to take responsibility for their fate.

People will eventually learn that in allowing the government to run their lives, it's ruining them instead. It won't happen overnight, but they will start demanding to have control back. They will insist that government rid itself of anything that interferes with its proper function of securing our right to live free.

They will see that their abnegation has become America's worst enemy by making government an unaccountable brute that threatens their very existence. On that day, self-responsibility, which has manifest survival value, will no longer be an obsolete ideal to be legislated into extinction. □

1. See Stuart Anderson, "The World According to Dick Lamm," August 22, 1996; www.cato.org/dailys/7-28-96.html.
2. Nathaniel Branden, "It's Your Life So Make the Most of It," www.nathanielbranden.net/ess/ess09.html.
3. See http://tlc.discovery.com/tlcpages/newyork/1776.html.
4. Leon Alligood, Rob Johnson, and Duren Cheek, "Crowd Hurls Rocks, Rhetoric to Protest Tax, *The Tennessean*, July 13, 2001; http://tennessean.com/local/archives/01/04/06531563.shtml.
5. Robert Vamosi, "How the NSA Is Monitoring You—And Why It's Wasting Its Time," ZDNet, June 27, 2001; www.zdnet.com/anchordesk/stories/story/0,10738,2780166,00.html.
6. David Remnick, "Many Voices," *The New Yorker*, October 15, 2001; www.newyorker.com/THE_TALK_OF_THE_TOWN/CONTENT/?011015ta_talk_comment.

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FEE TODAY

www.FEEnationalconvention.org March 2002

How FEE Changed My Life

By Ron Robinson

President's Introduction:

Since becoming president of FEE, I've met many, many supporters whose lives have changed forever because of our publications and seminars. Thanks to FEE, they've gone on to become presidents of corporations, universities, and think tanks.

I have asked several prominent individuals to write their stories, which we will publish in FEE Today *and other publications from time to time.*

The first is by Ron Robinson, president of the Young America's Foundation, which recently acquired the Reagan Ranch in Santa Barbara, California. My wife, Jo Ann, and I had the opportunity last month of taking a private tour of the Reagan Ranch, and we were deeply moved by this "working" ranch. President Reagan almost singlehandedly rebuilt the ranch, including the roof of the main house and the fences. Another Thomas Jefferson!

President Reagan, by the way, was a longtime friend of FEE who corresponded with our founder, Leonard Read, and was a devoted reader of The Freeman *(now* Ideas on Liberty*).*

We thank Ron Robinson and his many supporters, including friend and publisher Tom Phillips, for preserving the Reagan Ranch. Ron Robinson's amazing story is told below. Enjoy! — *Mark Skousen*

FEE has been a powerful influence in my life.

I started to assess the world around me back in 1967 when I was a junior in high school. I worked every day in my father's grocery store in the inner city of Buffalo, New York. The Vietnam War was heating up and President Johnson was expanding his "War on Poverty." My teachers promoted government intervention as the only way to protect the consumer and revitalize the inner city. But what I was taught in the classroom contrasted with my day-to-day reality.

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Government inspectors regulated everything relating to our family store: the meats, the vegetables, the garbage collection—even which signs were permitted and which weren't. In theory those inspectors were needed to protect the consumer. In reality they inspected nothing. They were there for a handout. If they got it, we passed inspection. But the cost of this corruption was passed along to the consumer. If there was no payout, the store would fail inspection and the customers were deprived of services they needed (we often delivered groceries for free, so a large share of our customer base were shut-ins).

Urban renewal was supposed to revitalize our shabby-looking neighborhood. But urban renewal in Buffalo merely meant tearing down the parish I grew up in. Many years later, unattractive government buildings replaced the homes and businesses. In the meantime, the Great Society did little to "revitalize" our community.

FEE gave me the intellectual understanding of why the Great Society didn't work and why government in action seldom matched government's promises.

None of this made much sense to me until I had the good fortune of receiving some books and materials from the Foundation for Economic Education. As a student, I had joined an organization called the Young Americans for Freedom (YAF), principally out of patriotic instincts. But it was FEE that gave me the understanding of how the world works. FEE offered *The Freeman* and its literature to new YAF members. FEE gave me the intellectual understanding of why the Great Society didn't work and why government in action seldom matched government's promises.

Ronald Reagan and Ron Robinson. Ron Robinson spearheaded the campaign to preserve the Reagan Ranch.

My father was struggling to support our immediate family, help other family members, and pay a gang of inspectors, garbage men, and other corrupt government officials. My dad had been orphaned before he was a teenager himself. His brother and sisters were split up among friends and relatives. Since his years of economic struggle focused him on survival, he never had a real appreciation of the power of owning and poring through books.

My father seriously asked, "Ron, why do you need more books, when you already have one?"

Happily for me, FEE sent free materials to students who asked for help. I will always be grateful for the books and encouragement I received from FEE during those formative years. I can recall my dad seriously questioning why I would get *more* books, "when

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you already have one?" He was skeptical that FEE would help me for free. Those FEE materials launched my lifelong passion of reading and studying.

One of the most useful books was FEE's *Clichés of Socialism,* which answered almost every mindless cliché my teachers peddled. [A new version has been published by FEE under the title *Clichés of Politics.*] My teachers' failure to answer or comprehend free-enterprise principles fueled my interest in further supplementing my education. I devoured *The Freeman* and the writings of Leonard Read, Ludwig von Mises, Henry Hazlitt, George Roche, and Milton Friedman.

Today I have the great honor of serving as the president of Young America's Foundation. We are responsible for saving and preserving the Reagan Ranch, sponsoring scores of student conferences and lectures, and training journalists at the National Journalism Center. I know our supporters sometimes ask me how I measure our impact, so perhaps FEE supporters ask FEE's leadership the same question.

On the campaign trail in 1980, Ronald Reagan took time to read The Freeman, *while Mrs. Reagan rested.*

The materials I received from FEE had more impact than the nine years of formal education I received after high school.

I doubt if founder Leonard Read or his FEE colleagues knew the impact they had on my life. I never made it to a FEE seminar because I had to work in my father's store. Although FEE may not have considered me among its alumni, the materials I received from FEE during my teenage years had more impact than the nine years of formal education I received after high school. I have been working for free-market principles for the intervening 33 years.

I have my own teenagers to raise now, so there are plenty of demands on my budget. Yet one of my great satisfactions is to be able to send FEE a contribution to support its crucial work. I am also pleased to announce that Young America's Foundation is co-sponsoring the FEE National Convention in Las Vegas. In late September FEE will offer its famous Course on Sound Money and Free Markets at our Reagan Ranch headquarters.

I hope I can convey how important your work is to everyone who supports FEE. You are ensuring that the principles of freedom are passed on to future generations. It is a wonderful service. It changes lives forever. □

Postscript from Mark Skousen:
Thank you, Ron.

How many future Ron Robinsons are out there who need FEE's seminars and its books and magazines on liberty and free-market economics? You can help by sending us a generous contribution today.

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Update on FEE Convention

We now have over 50 speakers and 30 sponsors appearing at our first FEE National Convention & 30th Anniversary Celebration of Laissez Faire Books, May 3–5, at Bally's/Paris Resorts in Las Vegas.

Our great lineup of speakers and topics includes:

—Ben Stein on "Why Bashing Big Business Is Big Business in Hollywood."

—Mark Skousen on "The Big Three in Economics—Adam Smith, Karl Marx, and John Maynard Keynes."

—Charles Murray on "The Growing Controversy of the Bell Curve."

—Larry Abraham on "What Every American Must Know About the Middle East and Terrorism."

—Nathaniel Branden on "The Battle for a Libertarian Society: Who's Winning? Who's Losing?"

—Congressman Ron Paul on "Confessions of a Libertarian Outsider in Congress."

—Panels on "Management Techniques for Libertarians" and "Latin America at the Crossroads: Freeway to Liberty or Road to Serfdom?"

—Special sessions on "Austrian Economics for Investors" and "The Contributions of Harvard Libertarian Philosopher Robert Nozick."

—Gary North on "The Most Dangerous Philosopher of Modern Times."

—Wendy McElroy, Joan Kennedy Taylor, and Sharon Presley on "Feminism and Liberty."

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—Richard Ebeling, Bob Higgs, and Tom DiLorenzo on the strange economics of Winston Churchill, FDR, and Abraham Lincoln.

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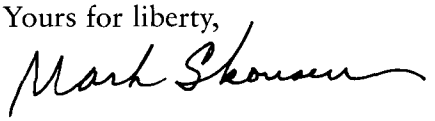

Mark Skousen

P. S. For all the other exciting seminars and programs we are doing, go to our revamped website, www.FEE.org. It's very interactive—vote for your favorite articles in *Ideas on Liberty*, win a free book, and more. You'll be impressed!

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IDEAS ON LIBERTY
MARCH 2002

Parity for Mental Illness, Disparity for Mental Patients

By definition, diseases are afflictions of the body. Hence, afflictions of the mind, called "mental illnesses," are not real diseases. Organized psychiatry deals with that embarrassing fact by reasserting its age-old claim that "mental illnesses" are brain diseases and enlisting the power of the state to turn fiction into fact.

In October 2001 the Senate approved a bill, spearheaded by Senators Pete V. Domenici and Paul Wellstone, outlawing disparities between insurance coverage for mental and physical illnesses. Domenici, the papers reported, "has a daughter with schizophrenia, and Senator Paul Wellstone, Democrat of Minnesota, whose brother has severe mental illness, pleaded with House members to outlaw the widespread limits on treatment for psychiatric disorders." Virtually without dissent, the media endorsed the cry for "parity." Nevertheless, on December 18, House members of the conference committee rejected the Senate proposal by a party-line vote of 10 to 7, Republicans voting no, Democrats voting yes.

For all practical purposes, there was no public debate about the pros and cons of using the power of the state to compel insurance companies to sell, and the public to buy and pay for, insurance for psychiatric treatment. The *Washington Times*, however, published my critique of the then-pending legislation as an op-ed article (December 9, 2001). In part I said:

> "All too often," complained Sen. Pete V. Domenici, New Mexico Republican, "insurance discriminates against illnesses of the brain." That statement—and the argument for so-called parity for mental illness it supports—is simply not true. Neurologists and neurosurgeons do not lobby for parity insurance for their patients because insurance companies have no special exclusions for patients with neurological diseases. Only psychiatrists lobby for such "parity."
>
> Advocating "parity for mental illness" is a hoax. The supporters of "mental health parity" do not want parity for mental patients: They do not seek equal "legal treatment" by legislators and courts for mental patients and medical patients. What they want is parity for psychiatrists: They seek equal "monetary treatment" by health insurance companies for psychiatrists and other physicians.
>
> The phenomena we label as mental illnesses are not brain diseases, and everyone knows it. That is why psychiatrists protest that mental illnesses are bodily diseases, and why politicians proclaim the disease status of mental illness. Politicians say that mental diseases are brain diseases, but don't mean it. Lawmakers regard mental diseases as quasi-crimes: They pass laws

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that authorize psychiatrists and judges to deprive innocent persons of liberty by confining them in mental hospitals. There are commitment laws for persons diagnosed with mental diseases; there are no such laws for persons diagnosed with brain, lung, or liver diseases. Mental patients are often treated against their will and they can plead mental illness (insanity) as an excuse for murder; medical patients cannot be treated against their will and cannot plead bodily illness (brain disease) as an excuse for murder. So much for parity for patients.

Sooner or later, we shall have to confront the nature of "mental illness" and the differences between the legal statuses of mental patients and medical patients. The longer we postpone this confrontation, the greater will be the injury inflicted on our health care system and on the moral fabric of our society.

In a letter to the editor of the *Times*, dated December 16, Richard K. Harding, president of the American Psychiatric Association (APA), responded:

> A Dec. 9 Commentary column in *The Washington Times* focused on the parity of mental illness and questioned the reality of mental illness, ostensibly arguing against parity with the premise that mental illness does not exist as a medically treatable disorder. . . . I encourage anyone who doubts the reality of mental illness to talk with a parent of a child with schizophrenia or manic depression. Mental illnesses are real, treatable brain diseases that require diagnosis and treatment by trained physicians. The editorial is a slap in the face at those among us who have mental illnesses. It essentially says that people with mental illness do not deserve appropriate medical treatment. . . . It is astonishing that people still revert to the Dark Ages to perpetuate the stigma associated with mental illness. It is time to recognize that mental illnesses are real and that they respond to appropriate medical treatment.

Assertion is not evidence. By urging "anyone who doubts the reality of mental illness to talk with a parent of a child with schizophrenia or manic depression," Dr. Harding implies that parents of mentally ill children are experts on diagnosing brain diseases called "mental diseases." If this is so, then those parents do not need doctors to determine if a child has a disease. They need doctors only to prescribe drugs to treat the illness.

Dr. Harding considers my piece "a slap in the face at those among us who have mental illnesses." But where is the insult? Suppose Jones believes he has diabetes and is told he does not have the disease. He would feel relieved, not insulted. Similarly, there are countless persons, throughout the world, who are grateful for, not insulted by, my "denial of mental illness": they do not want to be defaced by psychiatrists. The only people who feel slapped in the face by my views are individuals who want to profit—economically, existentially, or both—from using the concept of mental illness and claiming it is a disease like diabetes: psychiatrists, politicians, and "professional mental patients."

Since Dr. Harding's comments were, oddly, focused on children afflicted with mental diseases, it must be emphasized that children with medical diseases, such as diabetes or Hodgkin's disease or lupus, are usually better behaved and more responsible than their healthy counterparts. The opposite is the case for children with "mental diseases." No doubt inadvertently, Dr. Harding's letter supports the view that a person with a psychiatric diagnosis is an individual whose behavior displeases or upsets persons who have power over him. □

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IDEAS ON LIBERTY
MARCH 2002

Prescription Drugs and Advertising

by William L. Anderson

In the continuing debate over the prices of prescription drugs, Ellen Goodman, a Pulitzer Prize-winning columnist, believes she has found the *real* answer to why many drugs are so expensive. The culprit, she says, is advertising, and lots of it. She writes: "Pharmaceutical companies tell us that the cost [of drugs] is connected to research and development. No cost, no cure. But major drug companies, as a Families USA report shows, spend more on marketing, advertising, and administering than on R&D. Indeed, some of what they call research—Let's color that pill purple!—is what we call marketing."[1]

Goodman is hardly alone in her views. Indeed, people on all sides of the debate often say the same thing. Drug companies do cite R&D costs as a major contributor to prescription drug prices, just as oil companies cite the high cost of crude oil for high gasoline prices. In other words, according to most who participate in such debates, costs drive prices. To be more specific, these folks hold that the costs of the factors of production (or what economists call inputs) directly determine the prices of the final products that individuals consume.

Government regulators usually base pricing policies on this "cost-plus" notion of prices. For example, when the U.S. government regulated gasoline prices during the 1970s, regulators tied increases in pump prices to price increases in crude oil. Of course, those regulators also forbade gasoline retailers to raise pump prices immediately after crude prices increased, since it would take four to six weeks before the higher priced crude actually became usable gasoline. Therefore, retailers had to wait before being permitted to raise prices.

(It does not take an economic expert to know what chaos this system created. Consumers, correctly anticipating future price increases, quickly increased their demand for gasoline purchases in the present. Because retailers were not able to raise prices in the presence of demand increases, it did not take long for anxious buyers to strip current supplies, leading to the infamous "Sorry! Out of Gas" signs that began to appear at gas stations across the country.)

The notion of cost-plus pricing is hardly new. Many ancient scholars, in search of the "just price," assumed that such a price had to be based on production costs. However, as Murray Rothbard noted, by the Middle Ages many of the Scholastic writers had jettisoned that view for a utility-based interpretation of value.[2] In fact, it wasn't until the rise of the English classical economists of the eighteenth and nineteenth centuries, including Adam Smith and David Ricardo, that cost of production once again took center stage.[3]

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One could say that a marketing campaign for a certain new drug does not drive up the price of drugs. Instead, a company will engage in a potentially costly but wide-ranging marketing plan for the drug because people at the firm believe the new drug will be profitable. The value of the marketing plan is derived from the value that consumers place on the drug, not the other way around.

Had the classical view been correct, folks like Ellen Goodman and the government regulators would have been justified in believing the cost of production ought to determine prices. However, the cost-of-production theory of value has a number of inherent problems, the chief one being that it explains nothing.

If one were to employ the cost-of-production theory to explain the price of my computer, the causality might go as follows: the price comes from the cost of the factors of production that went into making the computer, including labor, raw materials, components, and the machinery (capital goods) that assembled them.

Fine enough, one might say, but from where did *those* costs come? A classical economist might answer that those costs came from the costs of the factors that produced the capital goods and raw materials. The costs of raw materials would come from the land and labor. Karl Marx reduced all production to labor in his variation of the labor theory of value. (Marx developed his theory of value from the "cost of production" theories of Adam Smith and David Ricardo. He took those theories to their logical conclusion in developing his own interpretation of value.)

The problem is that we are stuck in an endless regression. Costs begat costs, but no one seems to be able to tell from where the *original* costs of land and labor emanated. In other words, one concentrates on *effect,* but cannot locate the original *cause.* (Marx does not provide a solution either, because he does not provide a causal mechanism for labor's value. Should a worker be paid $3 or $300 an hour? Marxism cannot answer that question.)

Utility Theories of Value

A general utility theory of value seems to offer an alternative to the cost theory, but it also has severe limitations. For example, the famous diamond-water paradox came from the confusion caused by general utility valuation. Water is more important to life than diamonds. Therefore, given a general utility view, water is more valuable than diamonds, yet in most cases the cost of potable water (at least in this country) is nearly nothing, while your friendly jeweler demands big bucks for diamond jewelry. As a Marxist who teaches economics once told me, the diamond-water paradox is "proof" that capitalism has distorted the values of society.

Yet no distortion exists. As I wrote in these pages previously, "Value . . . is determined by the usefulness of the marginal available unit of the item in question, or *marginal utility.* An individual imputes value to a particular *unit* of water, not to the overall characteristics of water itself."[4]

Furthermore, as Carl Menger, the founder of the Austrian school of economics, pointed out in his 1871 classic, *Principles of Economics,* the value of factors of production ultimately depends on the value that consumers place on the final (consumption) good made from those factors. For example, before people discovered they could distill

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kerosene from crude oil, crude was mainly seen as a nuisance. Before the development of kerosene, people in western Pennsylvania drilling for water who instead hit oil did not think of themselves as fortunate. Instead, they cursed their bad luck.

In other words, oil-derived products like gasoline and heating fuels do not gain their value from crude oil or from any of the processes involved in the creation, transportation, or sale of fuels. Instead, crude oil, refining, and transportation of oil products all receive their value from the value of the fuels, nylon, and other oil-derived products that consumers use.

Menger asked what would happen to the value of factors of production used for making tobacco products if everyone were to stop consuming tobacco. He noted "finished tobacco products" would lose their value. But that's not all: "A further consequence would be that the raw tobacco leaves, the machines, tools, and implants applicable exclusively to the processing of tobacco, the specialized labor services employed in the production of tobacco products, the available stocks of tobacco seeds, etc., would lose their goods-character."[5] Obviously, among the labor services losing value would be the marketing of tobacco products.

To place Menger's analysis in the context of marketing drugs, one could say that a marketing campaign for a certain new drug does not drive up the price of drugs. Instead, a company will engage in a potentially costly but wide-ranging marketing plan for the drug because people at the firm believe the new drug will be profitable. The value of the marketing plan is derived from the value that consumers place on the drug, not the other way around.

Another way to look at this issue is to do what Goodman implies should be done: eliminate most of the marketing. In her view the "cost" of drugs would be lower, which would mean they could be sold to the public for less. This is a rather naïve view of things. A firm does not employ marketing to raise its costs. Instead, it engages in marketing to inform the buying public (and especially doctors who will write prescriptions) of the drug's effectiveness. Without marketing, it would be unable to get out the necessary information to make its drug salable in the first place.

In short, commentators like Goodman—as well as those who publicly represent the drug industry—have the scenario backwards. The value of a drug is decided in the marketplace, with consumers driving the whole process. Granted, there are factors that keep drug prices high, like patents and third-party payments through insurance and government. The patents restrict the amount that will be made available, while third-party payments help keep demand at high levels.

But those facts cannot change the principle that consumer demand ultimately determines not only the value of an end product, but also the value of all of the factors of production (including marketing) that go into making it available to people. Marketing doesn't drive up the price of a drug; rather, the prospect of a drug's benefits (hence, its profitability) makes its marketing valuable. □

1. Ellen Goodman, "Prescription Drug Ads Drive Up Costs," *Greenville* (S.C.) *News*, July 15, 2001, p. G3.

2. Murray N. Rothbard, "New Light on the Prehistory of the Austrian School" in Edwin G. Dolan, ed., *The Foundations of Modern Austrian Economics* (Kansas City, Mo.: Sheed & Ward, Inc., 1976), p. 54.

3. While the English Classical economists gave us many important ideas regarding creation of wealth and the importance of laissez faire, their value theory was less than desirable and, according to Joseph Schumpeter, actually pushed economic analysis down the wrong path (Rothbard, p. 53).

4. William L. Anderson, "In Praise of Athletes' High Salaries," *Ideas on Liberty*, August 2000, p. 9.

5. Carl Menger, *Principles of Economics* (New York: New York University Press, 1976), p. 65.

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IDEAS ON LIBERTY
MARCH 2002

Protecting Precious Resources

by Scott McPherson

"If our progress is to continue, it is important that we do not forget the things which have brought us thus far."
—HENRY GRADY WEAVER, *The Mainspring of Human Progress*

Ever since President George W. Bush proposed opening up parts of the federally owned Arctic National Wildlife Refuge (ANWR) for drilling, the debate has raged over America's energy policies and the best way to guarantee independence from foreign energy, particularly oil, sources. In battles typical of American politics, these arguments have never focused on the proper role of government and how best to insure a free society in an increasingly interdependent world. Instead the argument has revolved around the popular collectivist notion of community ownership.

A common refrain these days is that government, especially the federal government, has a duty to act as a "steward" over "our" natural resources. This is often stated in very explicit terms—that woodlands, oil-rich lands, and natural-gas deposits, among other things, are "national" property, requiring state ownership and, of course, bureaucratic control. Whenever the issue of natural resources is raised, it is accepted as given that elected officials know better than entrepreneurs how to provide for the needs of the American people. Such thinking is dangerous not only because it is wrong, but also because it feeds the growing trend in mainstream thinking that the products of the marketplace are Americans' by right.

The most common mistake in this discussion is the assumption that because a specific commodity happens to lie within the political borders of a country, it is a "national" good. For example, because ANWR is in the state of Alaska, anything of value there belongs collectively to the American people—which means, in effect, that it belongs to the federal government. The question to ask is, *should* government own resources? Do we want it dictating the terms by which certain commodities will be released into the economy, and is this the best way of securing their long-term use?

To many people, the answer is categorically yes. Who, they ask, is going to assure the continued provision of oil, gasoline, or wood, if private interests are allowed to exploit them for profit. If left to the free market, they believe, there simply wouldn't be any of these stocks left, as more and more greedy businessmen pulled them from the ground to offer up to a consumption-mad populace.

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Critics of the free market want things both ways in this respect. On the one hand, it is presumed that if private companies were allowed to own "vital" resources, they would rush to flood the market in the hopes of quick gains and deplete the supply. However, it is by increasing supply that prices are caused to decline, not rise. Conversely, others fear that these resources would be hoarded and kept *off* the market for the opposite reason—to raise the price. That hardly jibes with fears of quick exhaustion.

It is precisely because of the profit motive that precious resources would be the most secure in private hands. If someone owns something of value, the last thing he wants to do is anything that would depreciate his investment. Woodland is only valuable because of the large number of trees on it, which is why timber companies not beholden to government replant their forests and avoid clear cutting. Natural-gas deposits, too, are no good once they are gone. After last year's huge increase in the cost of natural gas, providers didn't sit on their laurels and allow the price to continue to skyrocket. They invested heavily in finding more.

Government, by contrast, has no real understanding of the usefulness and importance of what it owns, exactly because it never has to face any economic consequences for its bad business decisions.

What Is Precious?

More important, those who call for government control of certain commodities live by an arbitrary definition of what is considered "precious." If only government can be trusted with property deemed of vital importance to our "national well-being," then a whole host of things should be added to the list of "national resources"—not the least of which are our automobiles, farms, supermarkets, and large manufacturers. No one but the most hardcore Marxist would suggest that these life-affirming goods and services be nationalized, yet a piece of frozen real estate in the Arctic Circle is "too important" to be left to the "instability" of the free market.

The longer this debate goes on, the more it sounds like Americans view their conveniences as a God-given right. The Declaration of Independence mentioned life, liberty, and the pursuit of happiness—not cheap gasoline, bountiful harvests, and inexpensive heat.

Electricity, food, homes, computers, medicine, cars, and the fuel needed to power them are the products of the labor of industrious people who sought to satisfy unfulfilled desires. The resources they had to use to create those goods are only valuable because someone invested the time and energy required to extract them from the earth. We are suffering under a dangerous illusion when we allow a disconnect between the individual initiative and motivation that made all these marvels available and individual ownership of the basic means of production—the land itself. Claims that government should manage the resources that provide the living standards we enjoy ignore the fact that government had nothing to do with creating that standard of living in the first place.

Government should have no role in the energy business, or any business for that matter, because it is inconsistent with its stated goal of preserving the rights of its citizens. It is government's job to protect the property rights of the entrepreneur seeking to exploit natural resources—not compete with him. With bureaucrats and politicians out of the way, profit-driven individuals will do all that needs to be done to assure that wants and needs are fulfilled in a timely and efficient manner for as little as possible. Let's not pretend that government can do that job. □

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Economics

The Cure Can Be Worse than the Disease

Last month I discussed the prisoners' dilemma, in which everyone is motivated to behave in a way that leaves everyone worse off. One can appreciate market exchange by understanding how private property and voluntary exchange eliminate a destructive prisoners' dilemma—one in which the best choice for everyone is to try to live at everyone else's expense. The result is general poverty, coupled with the loss of freedom to a repressive state justified in the name of overcoming the prisoners' dilemma.

But even when a country has a well-functioning market system, some government action is commonly justified as necessary to overcome serious prisoners' dilemmas. For example, making sure that people obey the rules of the market (respecting the property rights of others and abiding by contractual agreements) can be thought of as overcoming a prisoners' dilemma. If everyone else obeys the rules of the market, the economy will be extremely productive, but an individual can do better by stealing and defrauding others (without sanctions against this behavior) than by being productive. As a few violate the rules of the market, obeying the rule becomes less beneficial to others, and a few more will begin to violate the rules, which can lead to an unraveling as increasing numbers steal and defraud. Engaging in productive effort becomes foolish. The only way out of this prisoners' dilemma is by imposing sufficiently severe penalties on theft and fraud so that they pay less than productive effort. Most people believe that only government can effectively impose such sanctions.[1]

Government is also widely believed necessary for overcoming the prisoners' dilemma in providing what economists call *public goods*—goods that, once provided to one person in a community, are available to all. Flood prevention is the standard example. The benefit you receive from preventing a flood does nothing to reduce the benefit your neighbors receive. With most goods, the same unit cannot be consumed by more than one person—the apple you eat is one that I cannot eat; the clothes you wear are clothes that I cannot wear, at least not at the same time. These goods are called *private goods*.

One might think that public goods are great—just provide enough for one person and you have provided enough for all. But public goods present a serious problem when, as is sometimes true, it is difficult to exclude people from benefiting from the good once it is provided. Again, flood prevention comes to mind. If my neighbor is protected against a flood, so am I. The problem is that it is difficult to get people to voluntarily pay for a non-excludable public good because each person can hope to free-ride from the payments of others. In other words, a non-excludable public good puts people in a prisoners' dilemma.

To pick a simple example, assume that

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100 people live in a flood plain and each would realize $500 worth of benefit from building a levee along the nearby river at a cost of $250 for each person. Clearly everyone would be better off contributing the $250 to build the levee. But no matter what each person believes others will do, he is better off not contributing. If enough others contribute, the levee will be built and he receives the benefits for nothing, but it would be useless for him to contribute if few others do. With everyone responding to the same incentives, no one contributes and everyone is worse off than they could be.

Supposedly, by being able to force people to pay taxes, government makes everyone better off by eliminating the prisoners' dilemma we would otherwise face. By requiring that everyone either pay $250 in taxes or go to jail, the prisoners' dilemma has been eliminated—and assuming the government uses the revenue to build the levee, everyone comes out ahead—the value they receive is greater than the taxes they pay.

Few Public Goods

However, there are far fewer public goods than claimed that really justify taxation and wealth transfers. There is hardly an organized interest group in existence that hasn't argued that its activities are vital to national defense and therefore the government should take wealth from others for its benefits: wool subsidies (soldiers wear clothes), agricultural subsidies (soldiers eat), import restrictions on shoes (soldiers wear shoes), special tax breaks for mining (provides raw material for weapon production), programs for storing feathers (to insure the availability of down for jackets if we are involved in an arctic war), and the list can be continued. None of these things are public goods, and even if important to national defense, they are best provided in markets undistorted by government subsidies and transfers.

Also, even when a good is a public good, it is often possible to exclude nonpayers and provide it more efficiently through private markets than through government. For years economists have used the lighthouse to illustrate a public good—the benefit that one ship received from the beacon did not reduce the benefits other ships could receive. But in 1974 the Nobel prize-winning economist Ronald Coase pointed out that many lighthouses were privately provided in eighteenth-century England, with owners collecting payment from ships as they docked at nearby ports.[2] A television program, once it has been broadcast, is a public good, but it can be (and generally is) privately provided by getting viewers to pay either indirectly by watching commercials or directly through pay-TV arrangements.

Arguments are often made for government expansion to solve problems that aren't problems at all. Of course, some interest is always served by government "solutions" to nonproblems, and not surprisingly government often steps in when it is not needed with actions that create real problems, which—surprise—are used to justify yet more government action. Even when a prisoners' dilemma prevents the private market from working with textbook perfection and it is theoretically possible for government action to improve things, it is seldom justified. Government action is invariably poorly informed, guided by motivations that have little to do with solving genuine problems, and almost always makes the problems it is supposed to solve worse.

One explanation for government's poor performance is that although it can sometimes solve some prisoners' dilemmas, it does so only by creating other, and commonly worse, prisoners' dilemmas. This will be the subject of next month's column. □

1. Strong arguments have been made that private arrangements would arise without government coercion to establish and enforce the laws necessary for the proper functioning of markets. See Bruce Benson, *The Enterprise of Law: Justice Without the State* (San Francisco, Calif.: Pacific Research Institute for Public Policy, 1990), and David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism* (LaSalle, Ill.: Open Court, 1989), chapters 28–31.

2. Ronald Coase, "The Lighthouse in Economics," *Journal of Law and Economics,* October 1974, pp. 357–76.

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IDEAS ON LIBERTY
MARCH 2002

Do Big Corporations Control America?

by James Rolph Edwards

Since the mid-eighteenth century the development of market-based societies in America and elsewhere, with constitutional protections of property and freedom, has had startling effects. Well over 90 percent of the improvement in the material living standards of ordinary persons that has occurred in the 6,000 years of recorded human history has occurred in that last 250 years and in those nations. Mean life expectancy in the United States rose from 35 years in 1800 to 50 in 1900, and around 76 in 2000. Famine in such nations disappeared and many diseases were conquered. All this resulted from replacing the caste and status relationships of medieval society with contract relationships between mutually consenting adults, while restricting the power of government to enforcing contracts, providing national defense, preventing crime, and a few other basic functions.

Despite the enormous gains this form of social organization generated for ordinary people, particularly in America, a political and ideological reaction began after the Civil War, when industrialization was proceeding rapidly, and lasted more than a century. A key claim of the partisans of this view—who originally called themselves Progressives—is that large corporations not only dominate capitalist society economically, essentially abolishing market competition, but also dominate the political system. So most, if not all legislation, serves the wealthy corporate interests. Karl Marx may have originated this argument, but to this day, shorn of its Marxist metaphysics, it is the majority perspective among the intellectual and political classes in America. Even many conservatives, and a few libertarians, adhere to this perspective.

Most staunch free-market advocates and political libertarians argue, to the contrary, that the dominant political and ideological impulse of the twentieth century in America and the West has been statist and anti-capitalist. In this view the "corporate domination" argument is simply a key element in that statist ideology, used to justify legislation enhancing governmental power and reducing human freedom. In an essay published several decades back, Ayn Rand made the connection clear when she wrote: "Every movement that seeks to enslave a country, every dictatorship or potential dictatorship, needs some minority group as a scapegoat which it can blame for the nation's troubles and use as a justification of its own demands for dictatorial powers. In Soviet Russia, the scapegoat was the bourgeoisie; in Nazi Germany, it was the Jewish people; in America, it is the businessmen."[1] Rand went on to claim, with some justification, that businessmen, big businessmen in particular, were America's most persecuted minority, using the inequities of the antitrust laws to illustrate her argument.

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Certainly, things are somewhat more complicated than Rand claimed in that essay. One need not believe that an all powerful conspiracy of international bankers and wealthy capitalists lies behind the statist movements of our day to recognize that businessmen have often supported extensions of state power. This was particularly so in the decades after World War I. Woodrow Wilson had centralized power in Washington during the war and exercised regulatory command and control over the economy. He drew many corporate executives into the government to operate the bureaus he created, and many of them found they preferred issuing and enforcing orders over attempting to motivate and manage voluntary, contractual employees, who could quit at will.

Thus some big-business executives came to the same elitist, technocratic view held by most intellectuals and academics: that ordinary people are too ignorant to run their own lives, much less largely determine, through their consumption and employment choices, the allocation of resources in society. It follows, in this view, that experts should run things by fiat, maintaining only a thin veneer of democracy and free markets. Franklin Roosevelt drew heavily on this pool of statist business executives to staff his administrations during the Great Depression.

Economists have also found reason to recognize that businessmen often act to extend government power and attenuate market competition. George Stigler developed the economic theory of regulation in the late 1960s, arguing that, instead of regulation being imposed on industries in genuine democratic response to the desires of oppressed and abused consumers, firms often actually seek government regulation in an effort to gain monopoly or cartel powers they cannot obtain by market methods. The historian Gabriel Kolko, in a detailed study of the Progressive era, made a similar argument a few years before Stigler. Rand herself, in many of her works, recognized the existence of such corrupt businessmen. Thus statist and corporate interests and ideology may converge at least to some degree, leaving a limited-government, free-market perspective as the only logical opposition.

Temporary Allies

Still, businessmen and statists can at best be temporary and uneasy allies. The majority of businessmen are honest, and unlike the intellectual, academic, and bureaucratic classes in America, where a statist view dominates, business interests are too diverse to generate a consistently statist legislative impulse. Some import-competing businesses, for example, will lobby for government to pass a tariff to raise the price of a product they sell domestically. Other businesses that use that product as an input, however, will oppose the tariff. Also, attitudes of firms toward regulation sometimes reverse. The airline industry sought the creation of the Civil Aeronautics Board and the airline cartel in the 1930s. But when their profits were absorbed by airline unions in the 1970s and many airlines were frustrated by the CAB in their efforts to compete on particular routes, much of the industry supported deregulation. Business groups donate to all influential parties and political groups, unlike labor unions, which donate exclusively to statist groups. Much business lobbying is essentially defensive, aimed at staving off oppressive and costly regulation, often unsuccessfully.

Most of the basic legislative structure in America conflicts with the view that legislation is dominated by wealthy corporate interests. Consider the tax structure. If such interests dominated, would the Sixteenth Amendment ever have been adopted? Would the personal income tax it allowed Congress to establish have become progressive, with a top rate that at times has been as high as 90 percent? Would over 70 percent of all revenue collected through the personal income tax come from the top 20 percent of income-earning families, as it has since the mid-1990s?

Again, if the wealthy corporate interests dominated government and legislation, would there ever have been a corporate income tax? Such a tax, levied on the net

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income of firms *before* distribution to investors, actually taxes the incomes of stockholders twice. That is because all the net income of the firm is generated by capital supplied by those investors, whose incomes are then taxed again, through the personal income tax, *after* distribution through stock dividends. As a result, the actual tax rate on investor income is enormously higher than the stated personal income tax rate. Certainly, rational capitalists would not have allowed such a grossly unfair and costly law to pass had they the power to stop it. The corporate income tax *disadvantages* corporations relative to other forms of business organization, such as partnerships and proprietorships, which suffer no such double taxation. If wealthy corporate interests dominated our political system, would they ever have allowed such a thing?

Similarly, would they have accepted a law compelling businesses to withhold the taxes of employees? Income-tax withholding forces firms to act as tax collectors for the government at their own expense. This is done without compensation of any kind, in violation of the Fifth Amendment takings clause of the Constitution, and against their wills, in violation of the Thirteenth Amendment injunction against involuntary servitude. Withholding imposes an economic burden that corporate or other business interests would not have willingly accepted had they the power to prevent it. Do not such policies in fact reflect an anti-capitalist animus?

Corporate Control?

The notion that a corporate elite dominates the nation politically presumes also that large corporations are able to control prices, output, and entry in their industries on an enduring basis, as John Kenneth Galbraith has long claimed. Though in some industries this has clearly occurred, precisely through corporate lobbying to secure franchises and monopoly or cartel protection (the electric utilities are a good example), there is precious little evidence of any successful system-wide abolition of competition. Precisely the opposite seems to be the case. The turnover of dominant firms in particular industries is far too high, and the market shares of firms in concentrated markets far too unstable year to year, to support any view that being top dog guarantees continued dominance. Add to this the rapid and constant innovation we observe, and such turnover and market-share instability indicates that most firms gain large market shares by satisfying customers with lower priced and/or higher quality products than their competitors, and lose share when they stop doing so.

The evidence regarding macro concentration points to the same conclusions. Any simple comparison of the Fortune 500 lists of the largest industrial corporations in 1980, 1990, and 2000, for example will impress an observer with the impermanence of corporate domination. Likewise, Gary Quinlivan recently compared the *Wall Street Journal* lists of the world's top 100 firms ranked by market value for 1990 and 1999, and found that there were 66 new firms in the 1999 list. He also reports that the United Nations, comparing lists of the top 100 nonfinancial multinational corporations for 1990 and 1997, found a 25 percent turnover. This is less impressive than the *Wall Street Journal* comparison, but still an enormous turnover of top firms in just a few years.[2]

Using data available in the 1986–to–1996 editions of the *Statistical Abstract of the United States*, I recently found some remarkable changes in U.S. macro concentration between 1980 and 1993. The 500 largest industrial corporations in the United States employ a large fraction of American workers, embody a large part of our productive assets, and produce a large share of our aggregate output. Over those 13 years, however, the assets of the top 500 industrial firms, as a share of total corporate assets, fell by over 20 percent. Employment in the top 500 firms, as a share of total employment in the country, fell even more, by 29 percent. And most amazing of all, the share of gross domestic product generated by those firms fell by an astonishing 39 percent over that short period.[3]

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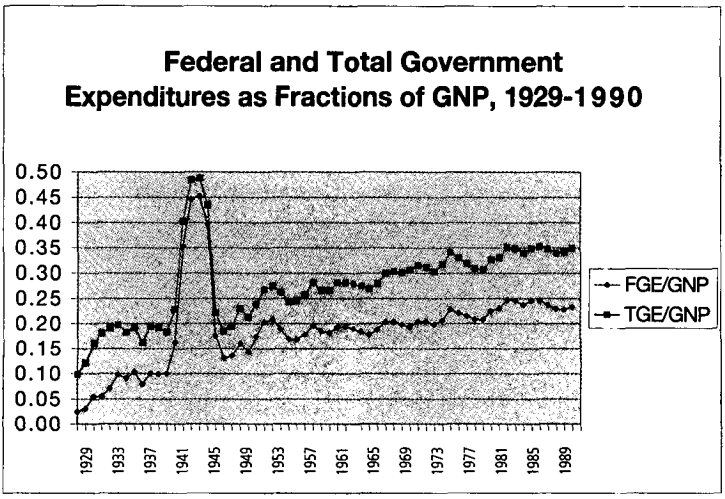
Clearly, the turnover in any list of the largest corporations is inconsistent with the naïve view that large firms are able to abolish competition and insure their continued dominance. So is the evidence on the output, employment, and assets of large firms in the aggregate. Assets, employment, and market share have clearly shifted significantly to small- and medium-sized firms in the last two decades. Such firms have competed with increasing success against larger corporations in a computerized and internationally integrated economic environment. Would any economically and politically dominant class of wealthy capitalists in big corporations have allowed such an enormous decline in their relative wealth and power to occur if they could have stopped it?

In fairness, it should be noted that these economic events are also not entirely consistent with the view that the statist and anti-capitalist ideology held by most members of the intellectual, academic, bureaucratic, and media elites still dominates the legislation process. Certainly that was true for most of the twentieth century, as illustrated in the graph showing both federal government expenditures (FGE) as a fraction of gross national product and the sum of federal and state expenditures as a fraction of GNP from 1929 to 1990. The data come from various volumes of *The Economic Report of the President*, which is issued annually by the President's Council of Economic Advisers. The growth in FGE/GNP, from about .025 (or 2.5 percent) in 1929 to .233 in 1990, nearly ten times as large, clearly, if imperfectly, documents the size and growth of the leviathan state.

Since about 1980, however, the ideological and political grip of statism has begun to loosen. Statist policies of regulation and income redistribution have visibly failed. Slowly, some of the statist fetters have been lifted from the economy, allowing entrepreneurship and economic growth to continue. Federal outlays actually fell from 21 percent of gross domestic product in 1994 to only 18.8 percent in 1999 (GDP replaced GNP in the National Income and Product Accounts after 1990). This nearly 10.5 percent decline in the relative size of government, and commensurate release of resources to the private sector, more than any other thing, accounted for the rapid economic growth of the late 1990s. Many statist policies still advance, of course. Things hang in the balance, but the tide seems to have incrementally turned toward restoration of a freer society. Whether that trend will continue or be deflected in a statist direction again by the terrorist attack of September 11 remains to be seen. □

1. Ayn Rand, "America's Persecuted Minority: Big Business," in Ayn Rand, ed., *Capitalism: The Unknown Ideal* (New York: Signet, 1967), p. 45.
2. Gary Quinlivan, "Multinational Corporations: Myths and Facts," *Religion and Liberty*, November and December 2000, pp. 8–10.
3. James Rolph Edwards, "The Myth of Corporate Domination," *Liberty*, January 2001, pp. 41–42.



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IDEAS ON LIBERTY
MARCH 2002

Beijing Erodes Hong Kong's Laissez Faire

by Christopher Lingle

While the rest of the world is debating the terms under which they might engage China, authorities in Beijing are busy trampling on its agreement with the British over Hong Kong's return to Chinese sovereignty. In the handover agreement, both parties agreed on Hong Kong's mini-constitution, the Basic Law, as a document that provided assurances for Beijing's "one country, two systems" pledge.

Most visitors to the former Crown Colony, now known as the Hong Kong Special Administrative Region (SAR), would think that little had changed there. And they are partly right. Little has changed on the surface. Unfortunately, there has been a constant erosion and corrosion of the basic institutions Beijing promised to leave unsullied and intact.

It is clear that China's authoritarian leaders hope that they can subvert these institutions to serve their own ends. On the one hand, they implemented a rigged electoral system that dilutes the democratic process and marginalizes reformists who promote democracy. At the same time, Beijing appointed a congenial but administratively challenged chief executive for the SAR to insure compliance with their demands.

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This would have been bad enough. However, there has also been a weakening of the judicial system. It bears pointing out that the openness and transparency of Hong Kong's legal system was perhaps the most important underpinning of the material success and freedoms enjoyed there. Ironically, with the exception of Jimmy Lai, Hong Kong's tycoons are too busy cutting deals with Beijing to realize what is happening. Most of the super-rich do not understand that the rule of law allowed them to become wealthy.

They are relying on their personal connections, *guanxi* in Chinese, to arrange favorable treatment from corrupt mainland officials. The bad news is that as these practices become perfected they will inevitably seep into business dealings in Hong Kong. The good news is that the forces of globalization assure that corrupt, authoritarian governments will join the Suharto regime in Indonesia in the dustbin of history.

A recent interference with Hong Kong's affairs was revealed in a warning issued by Wang Fengchao, an official of the central government's Liaison Office in the SAR. He insisted that the Hong Kong media not publish views advocating independence for Taiwan, declaring that journalists have a responsibility and an obligation to support reunification of China. In addition, the media should not disseminate information that might be interpreted as advocating the "two states" theory articulated by former Taiwan President Lee Teng-hui or any others

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that might encourage independence. At the same time, Mr. Wang urged the SAR government to move quickly to enact an anti-subversion law based on Article 23 of the Basic Law, which authorizes national-security legislation.

A State Matter

In his warning, Mr. Wang asserted that his proposed limitations had nothing to do with press freedom because Taiwan is a state matter that should be dealt with differently from other news items. As if Beijing's continued human rights abuses were not enough, Mr. Wang's comments provide ample evidence that Communist Party officials do not understand the nature or the value of individual rights and freedoms.

The media has now been instructed that it must handle Taiwan-related news differently. Compliance with this demand would be tantamount to self-censorship and undermine editorial independence as the foundation of press freedom. In effect, the media would be reduced to being a tool to promote policies of the current ruling party.

At present, the Basic Law guarantees press freedom along with freedoms of speech and publication. It would be a stretch to imagine that restricting such freedoms is consistent with the spirit of Article 23.

These misguided actions are further corrupting the Basic Law and serve to make more implausible the terms offered to the Taiwanese people for unification under the conditions of autonomy promised to Hong Kong. At the same time, a crackdown in Hong Kong would destroy investors' confidence in its laissez-faire institutions.

In another instance, Beijing violated the spirit of noninterference in Hong Kong's internal affairs by indicating its displeasure with a ruling that would grant an extended right of abode to some mainland citizens. In response, the SAR government reversed the decision and issued a statement acknowledging Beijing's right to reinterpret the Basic Law.

The insensitivity of China's authoritarian leadership to Hong Kong citizens' wish for greater economic and political freedoms sullies its own image. At the very least, it casts a pall over expectations of Beijing's willingness to uphold international agreements that it considers inconvenient.

Although Marxism may have been sidelined for the moment, China remains in the grip of a Leninist power structure that is rigidly authoritarian. In its present incarnation the leadership in Beijing is not only going against the tide of human history; it also violates Lenin's vision of anti-imperialism. In response to the colonial imperialism of his day, Lenin supported the rights of self-determination for all people. This should presumably include people in Hong Kong and Taiwan.

Meanwhile, Beijing insists on disregarding the expressed preferences of Chinese people in both places. The current leadership should build on the successes of Deng Xiaoping, who oversaw the modernization of China's economy. It should yield to the inevitable forces of history that demand a modernization of China's political system. □

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IDEAS ON LIBERTY
MARCH 2002

Lead Balloons

by Larry Schweikart

The scenario became clear about five years ago: neither the federal government nor the states could hope to raise taxes any further without a major revolt at the ballot box. At the same time, politicians hesitated to take any unpopular steps that might result in fiscal responsibility, especially at the national level. Numerous budget "caps" and "resolutions" and "agreements" led to sustained deficits in the 1980s. Then, because of the still-vibrant economy, government revenues suddenly eased past expenditures to produce several years of surpluses. But the important fact remains that neither during times of deficits nor during times of surpluses did the growth of government slow, let alone halt.

This produced some uncomfortable feelings in Washington, which as much as possible had shifted the burden of programs related to the environment, law enforcement, and other policies to the states, which in turn found themselves financially struggling. The result was an awareness that while voters still wanted their programs, they also refused further tax hikes to pay for them. What to do?

Into this dilemma jumped the American trial lawyers, first latching onto the tobacco litigation by persuading the attorneys general of a majority of states to tag along on a class-action suit against the tobacco companies. What was the hook to reel in the greedy state governments? Use the tobacco-settlement money to offset state health outlays caused by cigarettes! As the tobacco litigation wound its way through the courts—ultimately to be settled—a few states began to have second thoughts about the likelihood that the funds would ever end up in their coffers. Several of them pressured the trial lawyers to reduce their percentage of the take in this massive heist.

The details of the tobacco settlement are, for our purposes, irrelevant. What is important was the precedent set: state governments, strapped for cash, refused to make citizens face the reality of scarce resources. Instead, the states resorted to a type of alternative funding via the lawsuit. However, even that temporary solution yielded another problem. With the tobacco companies now immunized, where could states get more cash?

The answer, literally, was painted on the walls. In 1999, Rhode Island State Attorney General Sheldon Whitehouse (a Democrat) opened talks with the litigation firm Ness Motley, and soon Raymond Motley filed suit against the lead companies that have produced lead-based paint since the 1930s. It did not matter that the federal government only banned white lead paint for use in residential areas in 1978 or that Motley's firm, along with six other major litigation firms, contributed more than $8 million to the 2000 election campaigns, virtually all of it to the

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Since lead paint was not intended to be eaten, no one even considered putting warning labels on paint cans, such as, "Warning! This is paint! Don't eat it!"

Democratic Party.[1] All that mattered was that cities (and, soon, states) saw a new golden goose. San Francisco already had a four-attorney team called the "affirmative litigation" department charged with going to industries with threats of litigation to extort money.

Straight in the crosshairs of the new suits were long-established American companies such as Sherman-Williams and Dutch Boy and British-owned Glidden. Having brought the asbestos companies to their knees, Motley and Peter Angelos of Baltimore (and another major Democratic National Committee fundraiser) set out to prove a "conspiracy" on the part of the paint companies to foist deadly lead-based paint on unsuspecting urban parents. Attempting to drum up victims, the lawyers scoured through the data on children with learning disabilities and poor school performance. Although any actual links to lead would be almost impossible to prove to reasonable citizens, court trials often don't involve reasonable people. Carefully screened emotional juries are set up to pit "the children" against "Big Lead." We know who wins that one.

National Lead, the major producer of lead that made Dutch Boy paint, was not a fat enough target for the litigators. They needed to tie in all the paint companies, and that involved the conspiracy aspect; the litigators sought to prove that the evil paint companies knew decades ago that their product damaged children, and covered it up. Arguing that the companies (like "Big Tobacco") knew the dangers and continued to sell—even to advertise!—the paint, the lawyers claim, proves the conspiracy.

The Power to Define

In fact, as historical research done by a colleague of mine shows, the companies' advertising at the time was constrained only by the laws that specifically dealt with toxicity. Since lead paint was not intended to be eaten, no one even considered putting warning labels on paint cans, such as, "Warning! This is paint! Don't eat it!" Moreover, even after the paint companies began to sponsor a series of studies at respected universities such as Johns Hopkins and Harvard in the 1950s, the measures used to determine either lead levels in blood or the danger levels that any particular "threshold" posed were hotly debated.[2] As with voting, it ultimately came down not to the data itself, but to who was allowed to define what the data meant. Once progressive "reformers" began to define lead poisoning as only a tiny fraction of what had before been considered tolerable, the attorneys had their "damages."

Still, the results so far have not been favorable to the litigators. A 2000 study of children in Illinois, which had higher proportions of children with elevated blood-lead levels than the national average, found only one child in 1,000 had lead at 10 micrograms or higher—the danger point. Moreover, this study covered only the worst high-risk lead-paint neighborhoods.[3] If the litigators can't squeeze blood out of a turnip there, they will be hard pressed to show across-the-board damages.

The defendants' attorneys have not sat on their hands. One of their necessary but utterly absurd (in a reasonable world) practices is to keep an attorney on the road attending city council meetings to parry suggestions from the ever-present lead lawyers who only want to be the city's friend. These defense attorneys literally have to pre-empt and counteract efforts by the lead zealots to consider new class-action suits in cities from Milwaukee to Marietta.

And the battle has been joined in the halls

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of academia. Noted business historian David Sicilia and chemical historian John Heitmann have plowed through some three *million* documents trying to establish the historical time line for what the paint companies knew and didn't know; what the reliability of blood-lead levels in 1930, 1940, and 1950 were; and how the companies advertised their products, not only to the public, but to lead and paint trade associations. It is all-out war, and if the trial lawyers succeed with paint, they will be back a year from now with yet another "dangerous" product. And if they don't succeed with paint? Unfortunately, they'll be back a year from now anyway, with state attorneys general in tow, whispering in their ears the names of new suckers to hit up for supplemental "contributions" to state budgets. □

1. Table accompanying Michael Freedman, "Turning Lead into Gold," *Forbes*, May 14, 2001; www.forbes.com/legacy/forbes/2001/0514/122tab2_table.shtml.

2. John Heitmann, "Absolutely the Right Tool for the Job: Atomic Absorption Spectroscopy and Childhood Lead Poisoning," paper presented at the Chemical Heritage Foundation, 2000, and "'Getting the Lead Out?' The International Labor Organization and Its Efforts to Prohibit Lead in Paint, 1919–1940," a paper presented to the European Social Science History Conference, 2001, both in author's possession.

3. Freedman, http://www.forbes.com/forbes/2001/0514/122.html?_requestid=2989.

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CAPITAL LETTERS

Are Displaced Workers Owed Anything?

To the Editor:

Professor Donald J. Boudreaux's views against government-financed adjustment assistance to workers harmed by free trade ("Compensate Workers Harmed by Trade?" November 2001) seem well-taken—except for one thing. The influence of freer trade on competition between domestic and imported products isn't a natural phenomenon like a climate change. Rather, it's a market transformation to which government has contributed by removing or substantially reducing longstanding import restrictions (for example, tariffs or quotas).

When such government decisions (in the interest of advancing the overall national interest) materially contribute to serious injury to U.S. workers, companies, and communities long dependent on production of the affected products, government should be prepared to help them make timely adjustments to this contingency. Such assistance, which should be of reasonable scope and limited duration, is economically sound, morally warranted, and vital to the viability of free trade as public policy.

—DAVID J. STEINBERG
Alexandria, Virginia

Donald Boudreaux replies:

I agree with Mr. Steinberg's premise that government's discretionary use of its powers can harm innocent people, but I differ from him on what I take as my benchmark for judging the appropriateness of any change in policy. My benchmark is that set of conditions that would exist with government doing nothing more than protecting people against violence and theft. Under these conditions, consumers would be free to buy goods and services from whomever and from wherever they choose. Tariffs and other restraints on trade violate this freedom. This violation creates special privileges for those domestic firms and workers who benefit from this artificial protection. From its start, this privilege is illegitimate. To lift it is merely to put an end to a monopoly privilege that never should have been conferred in the first place.

If the police devote more resources to stopping mugging in Central Park, the government surely owes nothing to displaced muggers. It's the same with trade restraints. When the government performs better the legitimate function of protecting rights and freedoms, those who benefited from government's earlier failure to perform this function—or, especially, those who benefited from government's active facilitation of rights violations—are owed no special assistance.

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IDEAS ON LIBERTY
MARCH 2002

Politics and Prohibition

Writing in the December 2001 *Atlantic Monthly*, Judge Richard Posner called for an end to the "war on drugs." He is among a small but growing number of eminent scholars and officials who openly advocate that the state get out of the drug-prohibition business. Milton Friedman and William F. Buckley Jr. have long pressed for an end to drug prohibition. They've been joined in recent years by, among others, former Secretary of State George Schultz, former Baltimore mayor Kurt Schmoke, New Mexico's governor Gary Johnson, and the editors of *The Economist*.

Judge Posner cites the new war on terrorism as the looming practical reason for ending the drug war. He points out that so-called "drug crimes" are victimless. Any threats posed by terrorists intent on slaughtering innocent people are immeasurably more serious than are whatever threats might be posed by people voluntarily purchasing, selling, and ingesting narcotics. And because expanded efforts to guard against terrorism require resources that have until now been used for other purposes, a sensible way to achieve the necessary reallocation of resources is to stop trying to protect people from themselves so that we can better protect people from violence initiated by others.

I cheered when I read Posner's call to end the drug war. While I oppose drug prohibition principally on ethical grounds—I believe that each adult owns himself and ought to be free to do with himself as he pleases—I agree that practical exigencies, rather than moral-based reasoning, provide the best hope of ending the drug war. Maybe . . . perhaps . . . just possibly the intensified necessity that Americans have for wiping out terrorism will cause us to understand that continuing the drug war is too costly.

But I doubt it.

Apart from its immorality, the war on drugs has been too costly from its inception. This "war" has long consumed billions upon billions of dollars' worth of resources, all spent with no discernable positive impact. Indeed, the only clear impact of the drug war has been a repulsive trampling of freedoms. Asset forfeitures, government espionage on its own citizens, and racial profiling are just the most blatant attacks on our freedoms unleashed by the war on drugs.

If the need to make sensible tradeoffs really drives voters and politicians, the drug war would have ended ages ago.

Astute readers might reply "No! Alcohol prohibition ended after just 13 years when Americans realized that it was failing."

That's the popular belief. It's wrong.*

National alcohol prohibition in the United States began on January 16, 1920, following ratification of the Eighteenth Amendment and enactment of the Volstead Act.

Donald Boudreaux (dboudrea@gmu.edu) is chairman of the economics department of George Mason University and former president of FEE.

*Much of what follows is based on Donald J. Boudreaux and A.C. Pritchard, "The Price of Prohibition," *Arizona Law Review*, Spring 1994, pp. 1–10.

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Speakeasies and gangster violence became familiar during the 1920s. And yet Americans kept drinking. But contrary to modern belief, the 1920s witnessed little sympathy for ending prohibition. Neither citizens in general nor politicians concluded from the obvious failure of prohibition that it should end. As historian Norman Clark reports,

> Before 1930 few people called for outright repeal of the [Eighteenth] amendment. No amendment had ever been repealed, and it was clear that few Americans were moved to political action yet by the partial successes or failures of the Eighteenth. . . . The repeal movement, which since the early 1920s had been a sullen and hopeless expression of minority discontent, astounded even its most dedicated supporters when it suddenly gained political momentum.

What happened in 1930 that suddenly gave the repeal movement political muscle? The answer is the Great Depression and the ravages it inflicted on federal income-tax revenues.

Prior to the creation in 1913 of the national income tax, about a third of Uncle Sam's annual revenue came from liquor taxes. Not so after 1913. Especially after the income tax surprised politicians during World War I with its incredible ability to rake in tax revenue, the importance of liquor taxation fell precipitously.

By 1920, the income tax supplied two-thirds of Uncle Sam's revenues, and nine times more revenue than was then supplied by liquor taxes and customs duties combined. In research we conducted, Adam Pritchard and I found that bulging income-tax revenues made it possible for Congress finally to give in to the decades-old movement for alcohol prohibition. Before the income tax, Congress effectively ignored such calls because to prohibit alcohol sales then would have hit Congress hard in the place it guards most jealously: its purse. But once a new and much more intoxicating source of revenue was discovered, the cost to politicians of pandering to the puritans and other anti-liquor lobbies dramatically fell. Prohibition was launched.

Despite pleas throughout the 1920s by H.L. Mencken and a handful of other sensible people to end the folly of prohibition, Congress gave no hint that it would reconsider its effort to ban alcohol sales. Prohibition appeared to be here to stay—until income-tax revenues nose-dived in the early 1930s. From 1930 to 1931, income-tax revenues fell by 15 percent. In 1932 they fell another 37 percent, so that in 1932 income-tax revenues were 46 percent lower than just two years earlier. And by 1933 they were fully 60 percent lower than in 1930. With no end of the Depression in sight, Washington got anxious for a substitute source of revenue.

That source was liquor sales. Jouett Shouse, president of the Association Against the Prohibition Amendment, was a powerful figure in the Democratic party that had just nominated Franklin Roosevelt as its candidate for the White House. Shouse emphasized that ending prohibition would boost government revenue. And a House leader of Congress's successful attempt to propose the prohibition-ending 21st Amendment said in 1934 that "if we [anti-prohibitionists] had not had the opportunity of using that argument, that repeal meant needed revenue for our Government, we would not have had repeal for at least ten years."

There's no doubt that widespread understanding of prohibition's futility and of its ugly, unintended side-effects made it easier for Congress to repeal the Eighteenth Amendment. But these public sentiments were insufficient, by themselves, to end the war on alcohol. Ending it required a gargantuan revenue shock to the U.S. Treasury.

So while I applaud Judge Posner and all others who advocate ending the drug war—and while I fervently hope that their calls succeed—if the history of alcohol prohibition is a guide, drug prohibition will not end merely because there are many good, sound, and sensible reasons to end it. Instead, it will end only if and when Congress gets desperate for another revenue source.

That's part of the sorry logic of politics and prohibition. □

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BOOKS

While America Sleeps: Self-Delusion, Military Weakness, and the Threat to Peace Today

by Donald Kagan and Frederick W. Kagan

St. Martin's Press • 2000 • 483 pages • $32.50

Present Dangers: Crisis and Opportunity in American Foreign Policy and Defense Policy

edited by Robert Kagan and William Kristol

Encounter Books • 2000 • 401 pages • $22.95

Reviewed by Doug Bandow

Americans who read *While America Sleeps* and *Present Dangers* might not recognize the world presented. The United States is at risk and embattled, sleeping while potential enemies march. Conflict, war, and disaster threaten at every turn. It is like Britain before World War II and America on the eve of Pearl Harbor. Only a massive military buildup can keep the nation safe.

It is a curious vision for a time when U.S. domination is akin to that of the Roman Empire. When it comes to conventional threats, there aren't any. The real danger, illustrated so horribly last September, is terrorism, but terrorism is largely a consequence of the sort of promiscuous American intervention favored by the authors.

Still, Donald and Frederick Kagan, Yale historian and West Point instructor, respectively, compare America today with Great Britain during the 1920s. In their view, just as the latter failed to win the peace after World War I, America risks failing to win the peace after the Cold War.

The bulk of *While America Sleeps* reviews British interwar policy. The analysis is interesting, but fails to demonstrate that upholding peace and stability everywhere would have advanced British interests or was sustainable.

For instance, the Kagans complain that British and/or allied weakness led to various colonial rebellions and European bullying. But Britain's failure to concentrate on its vital interests in Europe resulted in part from its dispersal of resources to police its far-flung possessions.

Most important, Britain and France disagreed on how to treat defeated Germany, falling between the two stools of conciliatory revision and ruthless enforcement of Versailles. Either course might have worked. The muddled approach was almost designed to fail.

The international environments then and now also differ dramatically. The Europe of the 1920s hosted only two significant democratic powers, Britain and France; authoritarian neutrals and potential adversaries were far more numerous. Military weakness and political mistakes then led to disaster.

Compare the world confronting America today. The Russian Humpty Dumpty has fallen off the wall and lacks Germany's recuperative power. China could become a serious threat, but is far behind. The greatest danger is not being asleep, but being arrogant: Washington's hubris has done more to push China, India, Indonesia, and Russia together than have any common interests.

Moreover, America is spending more on the military than any other nation. In response, the Kagans wheel out one of the silliest arguments extant. The United States is spending a lower percentage of GNP on the military "than at any time since before World War II." However, in real terms the economy is eight times as large, which means that we are devoting far more resources to the military. And no nation is spending more—in contrast to 1940, when many were.

The world is messy and the future is unpredictable, but nothing justifies the nightmares that apparently trouble the Kagans. What they should fear are more terrorist attacks at home. More meddling overseas will only increase that risk. Washington long should have been focusing on defending

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the American homeland instead of, say, attempting to reorder the Balkans.

Of the same nature, though more present-oriented, is *Present Dangers*, edited by Robert Kagan of the Carnegie Endowment and William Kristol of the *Weekly Standard*. Although they admit that there currently is no obvious dire traditional threat, they worry that the United States "will shrink its responsibilities and—in a fit of absentmindedness, or parsimony, or indifference—allow the international order that it created and sustains to collapse."

Not all of the book's essays are alarmist in tone. Still, all assume that America's allies—to whom Kagan and Kristol demand "an even greater U.S. commitment"—are helpless.

For instance, Nicholas Eberstadt of the American Enterprise Institute warns that North Korea "poses a continuing, and perhaps even an increasing, threat to the United States and her Asian allies." But North Korea is bankrupt and starving; it does not threaten America. Rather, it threatens the Republic of Korea, which today, with 40 times the GDP and twice the population, can readily defend itself.

Donald Kagan also has an essay in *Present Dangers*. His short historical essay, which closes the volume, emphasizes the importance "of maintaining a military force adequate to deter aggression long before any state was capable of undertaking it." But America obviously has that ability. The question is whether Washington should deter aggression everywhere, even if of no consequence to America or deterrable by its allies.

Leadership requires the exercise of discretion, the thoughtful use of power in a world of limited resources to match policy with interest. In deciding what matters, America must consider all its values and interests, including its commitment to preserve limited, constitutional government, maximize its own citizens' freedom, and not treat its servicemen as gambit pawns in a global chess game.

Yes, America is sleeping. Americans are sleeping while political elites work to preserve outdated policies, alliances, and forces, irrespective of cost and risk. If war comes to America, it will most likely result from promiscuous intervention to fulfill the limitless commitments envisioned by the three Kagans and Kristol. □

Doug Bandow is a senior fellow at the Cato Institute. A former special assistant to President Reagan, he is the author or editor of several books, including Tripwire: Korea and U.S. Foreign Policy in a Changed World.

A Nation of Cowards: Essays on the Ethics of Gun Control

by Jeff Snyder

Accurate Press • 2001 • 170 pages • $24.95

The Origin of the Second Amendment: A Documentary History of the Bill of Rights

Edited by David Young

Golden Oak Books • 2001 • 838 pages • $55.00

Reviewed by Dave Kopel

While there are many books on the empirical, sociological, historical, legal, or political aspects of gun policy, *A Nation of Cowards* is the first full-length book focused on philosophical questions. The first, and best, essay bears the same name as the book. Originally published in 1993, Snyder's essay challenges the notion that reliance on government employees for protection is morally superior to protecting oneself. Indeed, Snyder suggested that a failure to protect oneself is immoral.

The rest of the book consists of reprints from Snyder's column for *American Handgunner* magazine, plus some other writings. This means that there is considerable repetition of themes from one chapter to the next. It also means that Snyder rarely gets much more sophisticated than in the first chapter. We see the same issues examined from various angles, but the perspectives never lead to greater depth.

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Even so, Snyder makes many excellent points, persuasively expressed. Looking at the National Organization for Women's opposition to female gun ownership, he observes that "feminine helplessness is acceptable as part of feminist dogma" as long as women rely on the state rather than an individual male for protection.

Snyder also addresses the argument that women should not use guns for defense against predators because defensive gun use is not always successful: "such arguments rest on the craven suggestion that you ought not to fight back unless you are first guaranteed perfect, risk-free protection." He likens eschewing guns because armed defense is not always successful to not wearing seat belts because they do not offer perfect protection in auto accidents.

Much of the gun-control debate in America revolves around social science and arguments for utility. Snyder raises two objections to such arguments: First, groups like Handgun Control shouldn't force others to live according to HCI's theory of utility and effective protection. Second, utility is irrelevant because it doesn't matter how many people misuse guns compared to how many people use them properly; to deny even one person the right to carry a gun because everyone else misuses guns is a violation of his natural rights.

Another of Snyder's targets is "instrumentalism"—ascribing moral qualities to firearms, rather than to the intention of the person with the firearm. This leads to his broader point that the gun issue is fundamentally about character, and that refusing to assume the responsibility of owning a gun to defend one's family is an abdication of the responsibility necessary for the citizen of a republic. This abdication, he argues, amounts to an admission that the individual is not fit to govern himself, but instead must be cared for and controlled by government.

Certainly there is often a correlation between unwillingness to defend oneself and support for the nanny state. But in this argument, Snyder lacks nuance and respect for the variety of the human condition. Based on the people you know, is it really true that everyone who doesn't own a gun or have expertise in some other form of self-defense is a sap who wants the government to take care of him?

In his final chapter, "Revolution," Snyder considers whether revolution could be justified today. He answers in the negative. First, today's American character is more like that of the revolutionary French than like that of America's founding generation. Americans today are dependent on government and afraid of responsibility, and therefore unfit to make a new government. Second, Snyder points to John Locke's observation that a revolution cannot succeed unless much of society agrees that radical change is necessary, and there is no such widespread belief in modern America. Snyder urges that "We must study again" the founding documents and "consider what principles and institutional structures might best secure liberty," including questioning where the Founders—or we—may have failed.

Readers who want to study the founding documents and the right to arms should purchase *The Origin of the Second Amendment: A Documentary History of the Bill of Rights*. The book has a new hardback edition, but the 1995 paperback edition is nearly as good.

Starting with the Constitutional Convention in the summer of 1787, and continuing through 1792, the book reprints the text of relevant sections (broadly defined) of every legislative proceeding, newspaper article, correspondence, and every other document related to the Second Amendment and the right to arms.

Besides 750 pages of original documents, the book offers an appendix of the full text of state constitution bills of rights from the founding era. Another appendix shows which states recognized certain rights or demanded their recognition in the federal constitution; the right to arms was nearly ubiquitous, and much more often recognized or demanded than the rights of assembly or petition.

When the Fifth Circuit Court of Appeals recently upheld the individual right to arms in the landmark *Emerson* case, the court

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cited Young's book scores of times, demonstrating its status as a leading source of original constitutional documents. □

Dave Kopel is the director of research for the Independence Institute in Colorado.

PC, M.D.: How Political Correctness Is Corrupting Medicine

by Sally Satel, M.D.

Basic Books • 2000 • 285 pages • $27.00

Reviewed by Sue A. Blevins

When one thinks about "political correctness" (PC), the term conjures up thoughts about left-wing politics. Sally Satel's *PC, M.D.: How Political Correctness Is Corrupting Medicine* focuses on U.S. schools of public health and their quest for "social justice," the anti-psychiatry movement among former psychiatric patients, nurse feminists, alternative medicine, involuntary treatment for drug addicts, and racial issues in health care. The author finds that the PC mindset is doing considerable damage in the field of medicine.

Satel, an M.D. who is also a lecturer at Yale University School of Medicine, a fellow at the American Enterprise Institute, and a former staff psychiatrist for the superior court in Washington, D.C., writes knowingly on a variety of important issues regarding public health. She provides persuasive evidence that schools of public health, traditionally focused on infection control and population-based diseases, have lately shifted to social and political issues. This new public-health activism stems from "political correctness," which is an outgrowth of postmodernist philosophy. Postmodernists accuse the dominant culture of imposing its values on the "powerless and disenfranchised" members of society. One of Satel's key observations is that postmodernists in medicine want to topple the dominant culture in order to close the health gap between whites and blacks. It's a case of doctors playing social engineers.

Satel notes that at the 1998 annual meeting of the American Public Health Association, a PC public-health academician offered these five recommendations for curbing the AIDS epidemic: "limit the power of corporations, cap salaries of CEOs, eliminate corporate subsidies, prohibit corporate contributions to politicians and strengthen labor unions." None of those mostly statist nostrums would have any impact on the transmission or curing of AIDS; the statists are trying to use that health issue as a Trojan Horse for their agenda.

Moreover, Satel points out that PC public-health activists aren't the least bit objective when it comes to examining the relationships between various social factors and health. "For example, noting that wealth and health correlate, some public health experts condemn capitalism. . . . However, if they must be social activists, these experts could just as easily fight for school choice. . . . After all, we know that education is linked to both future earnings and health. And wouldn't it make sense to encourage marriage and religious activity, since both are associated with better health?" the author asks.

Satel's concerns about the anti-psychiatry movement, however, aren't convincing. In fact, the book presents a major contradiction: In chapter two, "Inmates Take Over the Asylum," Satel challenges the claims made by "consumer-survivors"—individuals who assert they were harmed by psychiatrists/psychotherapists and who vehemently oppose involuntary treatment. Yet in chapter seven, "Therapy for Victims," she provides rational evidence that the "trauma services movement" is seriously damaging patients. This type of therapy is based on the premise that early trauma results in catastrophic problems and therapists should work on helping patients express their repressed memories of abuse. But could this therapy actually help implant false memories? Satel notes that "The American Psychological Association is so concerned about the ethical and legal implications of 'implanting' memories of abuse through suggestion that it published a primer for therapists."

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So could it be that the consumer-survivors in chapter two were truly harmed by the memory implanters noted in chapter seven? It seems illogical to debunk the consumer-survivors' claims of being harmed by psychiatry in one place, while highlighting a dangerous type of therapy (the trauma services movement) in another.

This book is a must-read for anyone interested in the issues of involuntary treatment for drug addiction and psychiatric illnesses. Satel clearly supports compulsory treatment for drug addiction and "mental diseases"—not just to make sure those so diagnosed don't hurt others, but to help them improve their own lives. She writes, "The point of imposing treatment is to help patients attain autonomy, to help them break out of the figurative straightjacket binding thought and will. . . . Being required to take medication is hardly a violation of the civil rights of a person who is too ill to exercise free will in the first place. The freedom to be psychotic is not freedom." Anyone who fears the spread of legalized coercion will find this part of the book most troubling.

PC, M.D. will engender many different reactions. In general, authoritarians will probably love it. Libertarians, conservatives, and classical liberals will appreciate the insights into the PC public-health movement, but will likely disagree with the author's support for state-mandated psychiatry and treatment for drug addicts. Finally, socialists, especially those espousing diversity and egalitarianism, will abhor that Satel has blown the whistle on their efforts to turn the medical profession into a tool for their increasing control of society. □

Sue Blevins is president of the Institute for Health Freedom in Washington, D.C.

Escape from Leviathan: Liberty, Welfare and Anarchy Reconciled

by J. C. Lester

St. Martin's Press • 2000 • 246 pages • $59.95

Reviewed by Andrew I. Cohen

Since the author focuses entirely on criticisms of libertarianism, a less felicitous but more descriptive subtitle would be: "Against Arguments that Liberty, Welfare, and Anarchy Are Incompatible."

J. C. Lester, a scholar in social and political theory trained at the London School of Economics and Political Science, applies Karl Popper's theory of knowledge to social theory. On Popper's view, we ought to uphold theories that withstand efforts at disproof by critics. Lester thus argues that leading criticisms of liberalism fail to falsify the "compatibility thesis" his subtitle expresses. Starting with accounts of rationality, liberty, and welfare presented in light of objections, Lester defends a completely unregulated market.

Lester is certainly doing important work. There are powerful scholarly criticisms of liberalism (in its original sense) worthy of libertarian notice. Lester's approach could furnish a weapon in the arsenal against anti-liberalism. Unfortunately, he moves with considerable, sometimes blinding, speed against critics of liberalism. He defends the brisk pace both by urging the reader to consult the original sources and by saying that any errors he made here would have persisted in lengthier discussions.

His cursory reviews of key arguments presuppose an intimate familiarity with scholarly criticisms of liberalism. This book might then be of little value for the layperson. For those familiar with the relevant contemporary scholarship, the monograph, though sometimes problematically quick, has some value as an anti-anti-liberal guidebook.

On Lester's account, rational persons invariably calculate how best to promote their perceived interests. He quickly surveys some objections to this picture of *homo economicus* and counters that persons rational-

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ly care for others, adding that each of us acts *by definition* as a "purposeful maximizer." Human welfare then consists in having one's preferences fulfilled. On such foundations Lester hopes to provide a non-moral and value-neutral derivation of the market system.

Lester's non-moral approach is seductive: if we can dispense with the complexities of moral argument, the case for the market might be less controversial. But this approach does not succeed here, and I worry that it can never succeed.

Liberty in his view is supposedly the absence of imposed cost, where cost is cashed out in terms of frustrated preference fulfillment. But Lester stacks the deck by excluding certain considerations from counting as *costs* or *benefits*, so he can pretend this whole enterprise is purely descriptive when, in fact, there is much robust evaluative work going on behind the scenes to make plausible this regime of liberty. This is clear in his effort to derive non-morally a system of ownership. But if property is taken to entail, as it usually does, a host of moral considerations, then we cannot derive a system of property simply from descriptive claims. To do so is to commit what philosophers call the "naturalistic fallacy," and I do not see how Lester avoids it. Either the system of property he derives is of no normative consequence, or it involves the norms typically entailed by property and so is guilty of the naturalistic fallacy.

Perhaps instead we should offer moral arguments to justify the consequences markets promote. This requires rolling up our sleeves and presenting some moral theory to undergird liberalism. I do not pretend to know how to do this, but it seems Lester has not avoided the need to do so.

Ultimately, Lester defends a form of what philosophers call "preference consequentialism." Under this approach, the free market best maximizes the satisfaction of preferences compared to rival systems. But what if aggregate preferences could best be satisfied by violating the rights of minorities? What protection does anarcho-libertarianism offer? Moving swiftly past such worries, Lester admits that he cannot in principle exclude horrific injustices. Taking a page from the nineteenth-century British utilitarians, however, he claims that people happen to be constituted so that standard injustices are not preference satisfying, all things considered. Such a response hinges long-term material prosperity, consonant with ordinary conceptions of justice, on a fragile preponderance of decent sentiments among the diverse lot of us. Maybe this is the best liberals can do, but critics will be undaunted. They will challenge Lester's empirical claims about human psychology, and they will challenge the normative suppositions lurking in the background of the whole project.

While Lester may not have succeeded in showing that liberty can be an "uncontested concept," libertarians cannot help but sympathize with his project of defending the market against charges of theoretical inconsistency. Provided we keep an eye on the speedometer, giving critics of libertarianism a run for their money can be an important and powerful buttress to the regime of liberty. □

Andrew Cohen is assistant professor of philosophy at the University of Oklahoma.

Competition or Compulsion? The New Market Economy versus the New Social Engineering

edited by Richard Ebeling

Hillsdale College Press • 2001 • 241 pages • $14.95

Reviewed by George C. Leef

There is a chameleon-like characteristic of the enemies of freedom—they keep changing their appeals to get people to surrender liberty and property. During the Cold War, those who favored central control over individual freedom importuned people with the absurd claim that state control over the economy would both be more fair and make us more prosperous. Now that they realize that good old-fashioned socialism is almost impossible to sell, they have switched

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to a new set of claims calculated to be more appealing to Americans who are, for the most part, affluent and unlikely to be swayed by even a toned-down Marxism. Now the siren songs of the authoritarians are more apt to appeal to the fears of those affluent people, saying that they might lose their comfortable living unless the state is given further powers.

The subtitle of this book is a good description of the current sales pitch: the new social engineering. The challenge to the free market now comes not in the strident red of Lenin, but in the muted earth tones of environmentalism, the "anti-sprawl" movement, the "precautionary principle," and similar notions, all designed to seduce comfortable Americans into the embrace of collectivist, *dirigiste* policies pushed by politicians and organizations dripping with concern and compassion. The new social engineers have figured out that the old adage is true—you do catch more flies with honey than with vinegar. That makes them all the more dangerous.

In the most recent addition to Hillsdale's Ludwig von Mises Lecture Series, editor Richard Ebeling has collected 12 essays exploring the threats to freedom posed by the new social engineering. "The contributors," Ebeling writes, "all warn of the continuing danger from the idea and ideology of the social engineer, in all its modern transformations."

The first and by far the longest essay in the book is by Professor Ebeling himself—"Planning for Freedom: Ludwig von Mises as Political Economist and Policy Analyst." Most of Ebeling's wide-ranging discussion concerns Mises's analysis of the untoward effects of government intervention in the free affairs of men. One of the chief problems of interventionism, Mises observed, was that it inevitably creates ripples of disturbance in other human endeavors, which then seem to require further intervention by the state. Ebeling writes, "Thus, in Mises' construction of the logic of interventionism, a 'dynamic' is set in motion that generates the potential for an ever-expanding circle of interventions due to the disruptions previous interventions have created." At the time, Mises was writing about economic planning, but his insight applies with equal force to the "new social engineering." Those who want to reshape society are no more able to stop with just a few measures of control than were those who desired to reshape the economy.

My favorite essay in the book is by Virginia Postrel, "The Future and Its Enemies: Dynamism vs. Stasis." The essay, of course, has its roots in her book *The Future and Its Enemies*, but is not simply a reprint of a chapter. It's a fresh look at what I regard as the key battleground in the current war between freedom and authoritarianism, namely the fight over the desirability of progress. Postrel's argument is that our ability to make progress is menaced by the forces of *stasis*. That is, there are people who contend that humans live well enough (or even too well) already and ought not to jeopardize what we have by permitting others to experiment with new products, methods, and ideas. She quotes British philosopher John Gray, who whines that freedom fosters "the malady of infinite aspirations." Proponents of stasis would like to tell us just what our aspirations may be.

Another excellent contribution comes from Fred Smith of the Competitive Enterprise Institute. He compares the current fight over globalization with the Progressive Era in the United States. Smith points out that then, as now, most intellectuals sided with the forces of control rather than with liberty. In the Progressive Era, when change meant increasing government control, they favored change, but in the modern era change means ways for people to escape control; so, Smith says, intellectuals have become the reactionaries.

Competition or Compulsion? also includes essays by George Bittlingmayer, Allan Carlson, W. Michael Cox, Peter Ferrera, Vaclav Klaus, Nancie Marzulla, Patrick Minford, Sam Staley, and Walter Williams.

The book is a worthy continuation of the fine Hillsdale series. □

George Leef is the book review editor of Ideas on Liberty.

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Lenin: A Biography

by Robert Service

Harvard University Press • 2000 • 592 pages • $37.50

Reviewed by Yuri Maltsev

Robert Service is University Lecturer in Modern Russian History at St. Anthony's College and a well-known specialist in twentieth-century Russian history. His most recent book, *Lenin: A Biography,* provides the reader with a comprehensive biography of a man who changed the course of events of the twentieth century. Lenin still affects our life today—his followers are numerous and fanatical in their beliefs; his shadow is behind terrorist attacks and the destruction of Afghanistan, Chinese pretenses to world hegemony, Castro's atrocities in Cuba, as well as the worldwide crusade against capitalism in the form of a rejection of globalization. While many books have tried to depict Lenin as a well-meaning reformer whose ideas were later perverted, Service gives us a more realistic portrait.

In the horror chambers of history Vladimir Ilyich Lenin (born as Ulyanov) has a special place. He initiated the spread of totalitarianism in the twentieth century and created the model killer state that was used and perfected by his successor Stalin, as well as by other socialist mass murderers of the past century—Hitler, Mao, Tito, Kim Il Sung, Castro, Ho Chi Minh, and Pol Pot. "Both industrial, literate, Catholic Czechoslovakia and agrarian, illiterate, Buddhist North Vietnam succumbed," Service writes. "The methods of introduction varied from invasion to local communist political agitation. But the result in its essentials was the same."

The book begins with a thorough examination of Lenin's family roots, childhood, education, and upbringing. In 1887, 17-year-old Vladimir entered one of the best educational institutions in Russia at the time—the University of Kazan. With an excellent school record and impressive recommendations, he was admitted to the law school despite the fact that he was a brother of an executed state criminal and himself highly critical of the government. (I spent my freshman year at the same university in the 1960s, but transferred to the Moscow State University because of the stale, semi-religious atmosphere of Lenin's personality cult that remains in his alma mater.)

Service gives the reader an excellent account of Lenin's revolutionary career and rise to power. In a particularly telling passage, the author reveals that Lenin's vaunted economic program for the new Soviet nation was not the result of deep thought and planning but of improvisation: "One of the great malignancies of the twentieth century was created more by off-the-cuff measures than by grandiose planning," he writes.

Lenin's successor, Stalin, the most murderous dictator the world has seen, was portrayed by Khrushchev as an "aberration of true socialism," "a tyrant who perverted Lenin's democratic intentions." Most Western academics followed their Soviet counterparts in this belief—some naively because any evidence of Lenin's cruelty was suppressed and kept in secret Party archives, others because they believed in socialism and would embrace any notion of the "good Lenin" and the "bad Stalin" to explain the elimination of millions in the Gulag. "Their argument was," writes Service, "that Lenin as he lay dying envisaged a permanent communist order that involved cultural pluralism, ethnic diversity and perhaps even a mixed economy," and that "if Lenin's health had held out, then communism with a human face could have been constructed."

Service shows, however, that few of Stalin's policies were without roots in Leninism: "Politics had been monopolized and centralized. The agencies of coercion were firmly under the party's control. The economy was penetrated by state ownership and state regulation. Religion was systematically persecuted. National aspirations were handled with grave suspicion. High artistic and intellectual culture was rigorously patrolled. Schooling was steadily communized. Law was introduced and suspended at the communist leadership's whim, and the legislative, executive and judicial functions of the state were deliberately commingled. The

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rulers treated society as a resource to be indoctrinated and mobilized."

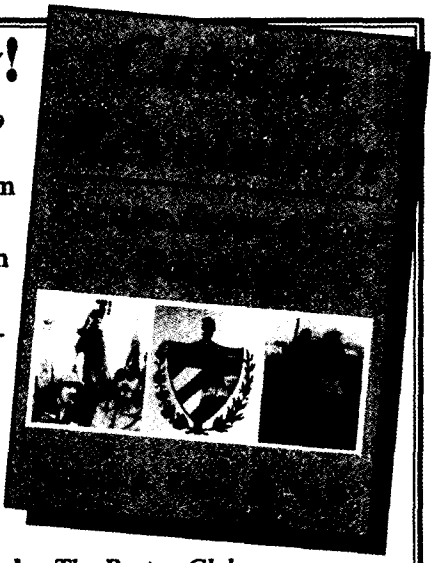
Not many mass murderers are revered long after their crimes were exposed. Lenin is luckier than others—his corpse is guarded in the pompous mausoleum at the Kremlin wall in the heart of Moscow. Tens of thousands of towns, villages, and streets still bear his name. Internet Web sites, newspapers, and magazines, as well as books and "documentaries" fabricated by Lenin's followers still praise the "genius of proletarian revolution, organizer of the Communist Party of the Soviet Union and founder of the Soviet state" without any moral qualms 75 years after the death of the tyrant.

Even today, in the wake of terrorist attacks in the United States, we feel Lenin's chilling legacy. Justification for the Soviet aggression in Afghanistan, which ultimately led to the destruction of that country and turned it into a breeding field for international terrorism, was based on Lenin's concept of the "internationalist proletarian duty" to establish "progressive" governments all around the world.

Readers who wish to understand the roots of much of the world's evil should pick up Service's excellent book. □

Yuri Maltsev is professor of economics at Carthage College in Kenosha, Wisconsin.

Here's What the Pundits Say!



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IDEAS ON LIBERTY
MARCH 2002

"We Can't Get Rich Doing Each Other's Laundry"

Since World War II, manufacturing employment as a fraction of total employment has declined steadily. In the middle of the war, it was over 40 percent of the work force. By 1966 it dipped below 30 percent for the first time. By 1985, it dropped below 20 percent for the first time.

In 2000 there were just over 18 million jobs in the manufacturing sector—a mere 14 percent of total nonfarm employment.

Should we be alarmed at the continuing decline of the manufacturing sector as a source of employment? Those who are alarmed argue that manufacturing jobs are the good-paying jobs. The alternative to manufacturing jobs are service jobs, which have a less than stellar reputation. Ignoring fringe benefits, the average manufacturing wage is slightly higher than the average wage in the service sector.

I recently heard a new slogan arguing for the importance of manufacturing jobs over service jobs: "We can't get rich doing each other's laundry."

Isn't that a great slogan? It conjures up a frightening future of an America without manufacturing jobs and the great masses of us stuck doing the most menial of tasks at subsistence wages.

I can think of lots of variations on this theme: We can't get rich selling each other cosmetics. We can't get rich flipping hamburgers for each other. We can't get rich chopping firewood for each other. And so on.

So is there any economics in any of these slogans? Are they legitimate warnings of the fate that awaits us as we slough off manufacturing jobs en route to a pure service economy?

It's worth noting that we probably *can't* get rich doing each other's laundry. That's what makes the slogan so clever—it's probably true.

What's false about the statement is the implicit assumption that if we're not careful, we're going to lose all our manufacturing jobs and have them replaced with service jobs. There's an additional implicit assumption that if we ever do lose or choose to shed our manufacturing jobs, then the service jobs that remain will be menial and low-paying.

Finally, there's an implicit assumption in all this that the decline in manufacturing jobs is a natural force, an unstoppable trend that will inevitably lead to the end of the manufacturing sector. And in some versions of the laundry story, the reason we're losing those manufacturing jobs is that foreigners are stealing them. While we sit idly by naively trying to do the best we can, foreigners are systematically stealing our high-paying manufacturing jobs. In this version of the story, America is being "hollowed out." Soon it will just be a dry husk supported by service jobs and will collapse.

Russell Roberts (roberts@wc.wustl.edu) is the John M. Olin Senior Fellow at the Weidenbaum Center on the Economy, Government, and Public Policy at Washington University in St. Louis. His new book is The Invisible Heart: An Economic Romance *(MIT Press).*

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What's really going on? Why is manufacturing employment declining as a proportion of total employment? Can a nation's economy survive on just the service sector? And if America does end up as a pure service economy, will we all be living in poverty?

The manufacturing sector as an employment source is in decline for two reasons. The first is innovation: manufacturers have found ways to get by with fewer workers. The second reason is international trade: some manufacturing jobs are cheaper to do outside the United States than here.

What that means is that the shedding of manufacturing employment is what has kept manufacturing wages above wages in the service sector. If we had stopped either of these trends in the name of keeping the high-paying manufacturing jobs, then they wouldn't be high-paying anymore.

But how can we stay rich doing each other's laundry? Isn't the inevitable result of these trends an America that relies totally on the service sector?

Doing the Mexicans' Wash

Imagine for a moment an America where everyone knew one thing and one thing only—how to wash clothes down by the river. That would be a poor country indeed. Not only can we not get rich doing each other's laundry, we'd starve to death without food. If everyone can only do laundry, there is no opportunity for trade, at least domestically. If we were really fabulous at laundry, it's conceivable that some of us might be able to do it for Canadians and Mexicans and thereby have access to some other goods beyond clean clothes.

Those who worry about foreigners' stealing all the "good" jobs—the manufacturing jobs—presume that when those jobs disappear, all we're going to be left with is those low-paying service jobs, and in the ultimate indignity, only the worst service jobs are going to be left.

But of course in the real world, in the America you and I actually live in, our skills go beyond laundry. Our wages don't depend on the name of the job we hold; they depend on our skills and the demand for those skills. Nothing will stop us from applying our dazzling array of skills domestically to basketball, health care, movies, education and the myriad of other service sectors.

Could we survive on just services? We wouldn't have to. We could trade those services, just as we do now, for manufactured goods made by foreigners. But wouldn't we be a lot poorer than we are now? If we were, some of us would find it highly lucrative to go into manufacturing. We'd turn our skills to making things again. If we ever shed *all* our manufacturing jobs, it will be because the cheapest way to get manufactured goods will be by swapping services for them.

Just as we are phenomenally more wealthy today than we were in 1943, when manufacturing was at its century-high peak as a proportion of total employment, we will be wealthier still if we ever become an all-service economy. That would occur as the natural result of our choices as to where to apply our skills.

So we can't get rich doing each other's laundry. But we can get rich choosing service-sector jobs over manufacturing jobs if that is where the highest applications of our skills lie. We've been doing it successfully for over 50 years. And it's likely that the next 50 years will see the manufacturing sector continue to shrink as a source of employment. But barring wars or horrible public policy, we'll continue to get wealthier. □

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"If ever this vast country is brought under a single government, it will be one of the most extensive corruption, indifferent and incapable of a wholesome care over so wide a spread of surface."

—THOMAS JEFFERSON (1743-1826) to William T. Barry, 1822

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